

## FOREWORD.

This book has been written, translated and printed only in five weeks. As it had to be printed at Lahore at a distance of 70 miles from Qadian, its printing could not be properly supervised, nor could it be delayed any longer on account of the nearness of the Round Table Conference. Consequently, a number of mistakes in printing as well as in translation have found their way into the text; even in the subject matter proper there may have occurred some discrepancies owing to the book having passed through several hands. However, the book is being published as it is, in the hope that the readers, would, in view of any good points that may be found in the book, not only overlook but also correct the mistakes for themselves. The work has been done in so short a time and in such great hurry that in spite of all our efforts the book could not be ready in time for its despatch to London by the ordinary mail. So it had to be sent by the Air Mail.

I think it necessary to thank here Maulvi Mohammad Din, B.A., Mirza Bashir Ahmad, M.A., Maulvi A. R. Dard, M.A., Maulvi Sher Ali Sahib, B.A., Mian Mohammad Hasan, Maulvi Misbahuddin and others, of whom the first four have from the very beginning worked most diligently in translating the book into English and revising it; while the fourth and the fifth gentlemen have been helpful towards the end, the last named being in charge of printing.

THE AUTHOR.

Qadian,

25th October, 1930.

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أعوذ بالله من الشيطان الرجيم  
 بسم الله الرحمن الرحيم  
 بحمدك و نصلي على رسوله الكريم  
 و على عبده الموعود  
 خذنا من فضلك ادر رحمتك  
 هو الداعى

**SEEK REFUGE WITH ALLAH FROM SATAN  
 THE ACCURSED.**  
**IN THE NAME OF ALLAH THE BENEFICIENT  
 THE MERCIFUL.**  
**WE INVOKE BLESSING OF ALLAH  
 ON HIS NOBLE PROPHET AND HIS SERVANT  
 THE PROMISED MESSIAH.**  
**WITH THE GRACE AND MERCY OF GOD  
 HE ALONE IS THE HELPER.**

**A study of the Simon Commission Report with a  
 view to the coming Round Table Conference.**

## **PREFACE.**

In view of the present state of affairs in India as well as in England it is certainly no easy task to write and publish a review of the report submitted by the Simon Commission to His Majesty's Government in England.

On the one hand a section of the Indian people is condemning it as being most reactionary and an insult to the political aspirations of the country, while



on the other a portion of the British people look upon it as but a leap in the dark. There is an atmosphere of tense excitement. The youth of India is indulging in happy dreams of a free motherland, whereas the veteran politician of England counsels a course of slowness and caution. If the one is looking upon the other as an irritating hinderance in the way of his freedom the other considers the former to be pursuing a course of sheer madness and folly. Such atmosphere is certainly not favourable for the giving and taking of advice though obviously it is the one when it is most needed. When acute and deep-rooted prejudices are at work human understanding naturally becomes dim and short sighted and under such circumstances one often fails to listen to, and recognise the reasonableness of, the best of advice. A perfectly good thing begins to appear as something positively bad and harmful, and a well-wisher is looked upon as an enemy.

This state of affairs, however, cannot prevent me from offering my advice which is rather all the more needed in times of such tension and mutual mistrusts. It is indeed a painful sight that on both sides there is little tendency to find out and face the truth and the hearts of the people are full of malice and ill-will. The Indians generally look upon every thing that emanates from the British as being based on deceitfulness and political manoeuvring while the English people

generally look upon the Indian political leaders as mere hunters of fame and leadership and disturbers of peace. Being a religious person I am not so much connected with politics as are those who may be called professional politicians but my religion makes it all the more obligatory on me to work for peace and goodwill. My being unconnected with politics perhaps also imparts to me a sense of impartiality which enables me to look at things more dispassionately than those who are actually taking part in the struggle on one side or the other. In view, therefore, of the coming Round Table Conference I have thought it advisable to express my views on the recommendations of the Simon Commission and other matters connected with the present political problem of India and I hope that the unbiassed and independent thinkers of both the countries will give my suggestions a dispassionate and sympathetic consideration.

I fully realise that the work before me is most difficult and complicated. It is certainly not an easy task to think out a good and workable constitution for a vast country inhabited by more than three hundred million souls and possessing a number of different religions, different languages, and different geographical conditions; and I pray to Allah, the Lord of the Universe, that through His boundless mercy and grace He may help and succour us in this hour of trial and guide us to the path of rectitude by treading

which we may be able not only to better our worldly affairs but also to win His pleasure and bask in the sunshine of Divine favour. We are weak but He is Powerful; we do not know the future, nor the requirements which it may bring with it, but He knows all. So to Him we should turn for true happiness and real success and before Him we should bow and pray that He may open out to us ways of peace and progress. Amen.

Before entering upon the subject proper I would like to give a word of advice to the British officials here as well as in England who are responsible for the good government of India. I would say to them, on you devolves a most heavy responsibility in connection with India. God has entrusted you with a sacred trust and you are now bound in duty to discharge that trust rightly and faithfully. The present day materialism of the world has immensely weakened faith in God and even those who claim to believe in a Supreme Being regard Him to be a mere looker-on who takes no interest in the affairs of this world. But this is not true; for if such had been the case God would never have cared to send prophet after prophet for the guidance of mankind. Is there a people in the world that has not received a messenger from God? Human intellect spurns the idea that the Maker of the universe should be satisfied to remain an uninterested looker-on and do nothing for the welfare

of those whom He has created. You may laugh at me and think me to be a foolish and-superstitious person for introducing religion and God in politics but the truth remains that a day shall come when everybody will be called to account before Him. There are many who ignore the existence of God in this life but death brings with it moments of sorrow and grief.

You should not therefore forget the heavy responsibility which you owe to India and of which you shall one day be called upon to render an account before the August Presence of your Creator. India is a most sacred trust in your hands; so let not the petty interests of your country and nation prevent you from discharging that trust honestly and faithfully. I have used the word "petty" advisedly not because I hold your country and your interests in light esteem but because every worldly gain and worldly interest, however great it may be, is petty and insignificant when compared, from the moral and spiritual point of view, with the question of the rightful freedom of even a single individual. If you act justly and faithfully in this matter then, even if some of your countrymen may now rail against you and call you traitors, the day will surely come when not only your own children but all the world will remember you with honor and the future generation will bow down their heads with reverence at the mention of your names.

Similarly I would say to the people of India, My country men! purge your hearts of all prejudices and feelings of malice and ill-will, for though these feelings apparently taste sweet and honeyed at this time they are in reality very bitter and harmful. The course of our history clearly indicates that the time of India's freedom has come. God Almighty is infusing a new spirit in our hearts. Behind the thick veil of dark clouds silvery streaks of lightening are making themselves visible, and though every interval of darkness may appear darker and more threatening than its predecessor yet light is also gaining more and more intensity at every new flash, holding out sure promises of coming happiness. So my dear countrymen do not exchange mercy of God for His wrath by cherishing hatred and enmity in your hearts, nor barter His beneficence for His curse for God loves not those who are obdurate and stiff-necked and who do not cheerfully accept the truth. It may be unpalatable to you now but it is a fact that whatever be the motive of the British in holding India their presence in this country is in some ways a boon from God for if we have lost something under their rule, is it not an undeniable truth that we have also gained a good deal? If the future material progress of the world is to be founded on the new sciences of the West, as it most likely appears, from the signs of the time that it will be, then whatever we have lost under the British rule

in India is but a cleaning of the old state, and we should be thankful to God that He has afforded us more facilities to learn the ways and sciences of the West than are available for many of the other eastern countries. Next perhaps to Japan India has benefited most by the sciences of the West and there is no denying the fact that this state of affairs has been brought about directly or indirectly through the agency of British rule in India. The nationalist movement which is surely though slowly welding the various heterogeneous elements of the country into one harmonious whole is also mainly attributable to British influence. Again respect for law and an effort to administer justice without fear and favour at least in cases in which the parties are Indian is yet another feature of the present regime. So let us not shut our eyes to their virtues in our dislike for their weaknesses. He who rejects one truth often finds himself in a position where he is forced to reject the other. The nation whom God has made a means of our awakening should not receive an ignoble treatment at our hands. We should not embitter the last moments of our final decision with that nation and thereby give rise to a new and world-wide conflagration. If injustice is bad in an Englishman, it should be equally so in an Indian. I would, therefore, advise you, my dear countrymen, to exercise self-control and moderation and to seek to win your goal with love and kindness, so that the hearts of the people may

be purged of all malice and rancour and the founda-  
 tions of a state may be laid in a way that may usher a  
 new era of love, unity and concord. Remember that  
 the world is like a human body and the various coun-  
 tries are its different limbs. Many people have tried  
 to amputate one or other of these limbs but now  
 Allah, the maker of the universe, wishes to re-establish  
 the world in its real and perfect form and to free it  
 from the fetters of the harmful jealousies of warring  
 kingdoms. For the attainment of this object the  
 constitution of the British Empire is one of the best  
 that we have, for it possesses the capability of unit-  
 ing and keeping united states having different forms  
 of Government and situated at remote corners of the  
 world without depriving them of their freedom and  
 independence. So, my dear countrymen, let us adopt  
 measures by acting on which we may make India an  
 equal member of the British Commonwealth which  
 bids fair to become the nucleus of a worldwide family  
 of nations; and let us not by pursuing false hopes seek  
 to undo and destroy this unique and wonderful experi-  
 ment which is being tried to secure the immunity (b  
 the various nations of the world against the poison of  
 harmful rivalries and destructive jealousies. May God  
 be with you and help you in this hour of trial, and  
 may He bestow His light on those, whether they be of  
 India or of Great Britain, who take part in this final  
 decision of India's fate so that they may be guided.

to walk in the path of His pleasure till His kingdom  
comes and reigns supreme on earth, for in that lies  
all bliss and all happiness.—Amen.



## PART I

### Fundamental Points.

## CHAPTER

### Introduction

There is no doubt that the Government has decided that in the Round Table Conference no special scheme or proposal will form the basis of discussion, the members being free to put forward, and deliberate on, any proposal they like, but it is equally certain that the report of the Simon Commission will naturally attract the greatest attention. True, that out of respect for Indian sentiment British representatives will expressly refer to this report as sparingly as possible, and similarly the Indian members will make little mention of it owing to the storm of opposition that it has raised in India but in substance the report will probably reign supreme in the minds of both the Indian and English delegates, and do what they can they will never be able to entirely free themselves from its influence. And it is due to two causes. *Firstly*, there is no other report or document that has dealt with the Indian problem so thoroughly giving arguments for everything said and recommended. There is of course the Nehru Report but (a) it is incomplete and lacks thoroughness, (b) it has been drawn up by persons who belong to

a particular class of Indian politicians (c) the interests of certain classes and communities have been entirely ignored in this report and (d) most of the good points of the Nehru Report have been incorporated in the report of the Simon Commission. *Secondly*, in spite of the fact that the Simon Commission report has met with strong and widespread opposition in India it must be admitted that it is sound in its fundamental principles and with proper changes and improvement it should become a good and workable constitution. The chief worth of the Simon Commission Report perhaps lies in the fact that in this report some of the more knotty problems have been solved in a form without adopting which there could be no peace in India, and the fundamental form of constitution which the Simon Commission has proposed and which has received such wide reception in England would have probably been rejected by the British people if it had been put forward by the Indians themselves. Hence it is obvious that without making a direct reference to the Report both the Muslim and the Hindu members of the Conference would be forced to use the arguments contained in it whenever and wherever it would suit their purpose. From the above it is clear that it is practically impossible to ignore the Simon Commission Report. Besides as it is not honest to condemn a whole thing for the faults contained in its parts I have decided to write a review on Simon Report for the benefit of the

members of the Round Table Conference in particular and the British and the Indian public in general.

The first thing that I would like to say and at which I have already hinted above is that the Simon Report is not as bad as would appear from the summary published in the Indian Press. Unfortunately this summary was not only misleading but positively wrong at certain places and this was to some extent responsible for the strong and universal denunciation which it met with. I myself denounced the report very strongly in the beginning but I should confess that when I read the actual report I had to change my opinion as did many others who had first so enthusiastically joined in the chorus of denunciation. A careful study of this report reveals that it contains many good points as well as many bad ones, and despite the opinion of the Commission that their recommendations are such as should either be accepted in toto or rejected entirely, I think the report is open to improvement and the commissioners' opinion that it is quite unalterable is probably due to the attitude adopted by the Nehru Commission with regard to their report. As I have said above I have read the Simon Report very carefully and I can say with certainty that if proper changes and improvements are made in it we can adopt this scheme with fairly good hopes of success. As a matter of fact it is not a peculiarity of the Simon Report that all parts of it

are inter-related and inter-dependent. Any good scheme would possess that virtue. But a sensible man would take care to make no change in a scheme that necessitates a change in some other part of it, and if such a change must be made he would also make a suitable change in that other part which is thereby affected. If, however, that part does not admit of any reasonable change he would, like a judicious judge, balance the arguments in favour of either side and find out the course which is least attended by dangers and then proceed accordingly. Thus treated the Report of the Simon Commission will certainly admit of all reasonable improvement and I am of the opinion that the members of the Round Table Conference would be well-advised to make the Simon Report the basis of their deliberations. This would make their task much easier and afford facilities that would not be otherwise available. If the Simon Report is not accepted as basis a host of schemes and proposals would probably pour in but obviously none of these would possess the moral strength which the Simon Report possesses, nor would they be the outcome of such long and calm deliberation. The result will be that in the confusion of discussion many really good proposals would perhaps be rejected and many harmful ones accepted merely for their seeming usefulness. As, however, the Simon Report has been so loudly denounced I am afraid most of the Indian members of the Conference

would not have the heart to openly accept it as the basis of their discussions and in such a case I would most sincerely advise my countrymen that though they may not expressly refer to the Simon Report they would do well to keep its recommendations and arguments well in mind and make a free use of them in their discussions, for inspite of many of its defects it will prove of good service to them. I would particularly remind my Muslim brethren that the Simon Commission has done an immense good to them in that it has strongly recommended a federal form of Government for India and through its clear and lucid exposition it has opened the eyes of the British public, which was traditionally quite unfamiliar with it, to the great usefulness of this system whereas no amount of effort on our part could achieve that end.

I should also mention here that inspite of the great labour bestowed on it the members of the Commission have at certain places committed errors of calculation in their report and have at others made a referencé to the usefulness of a certain matter in their survey and then neglected to include the same in their recommendations. But I need not go into details of such matters. If the Round Table Conference proves to be a success the final draft will of course receive that minute care which it deserves.

## CHAPTER II.

### Representative Government for Asiatic Countries.

In the second volume of their report the members of the Commission state that to propose a representative form of Government for India on the lines of Western Countries would not be suitable, for the system which the West has involved through an experiment of centuries could not be suddenly introduced into an eastern country where despotic form of Government has been in vogue for thousands of years. The Commissioners have not dealt with this point in any detail but at several places they have made a mention of it and as many European writers have also expressed the same view in their writings a passing remark on this point would not be inappropriate. As a matter of fact unless all that serves as a stumbling block in the way of a person be not quite removed he cannot be expected to find an easy approach to a subject even if he possesses the desire to do so.

Now if what the Commissioners mean is that the British Constitution cannot in its entirety be introduced into India I am at one with them. But the point has no concern with the western or eastern, new or old traditions. There is no country the Constitution of which can with any hope of success be wholly introduced into another country however

similar their conditions may be. France is a next door neighbour of England but its Government will break down in a day if British Constitution is imposed on it. The United States of America inspite of being an offspring of Great Britain cannot afford to be fully subjected to the English Constitution. Nay even the Dominions of Great Britain do not entirely follow the Constitution of England. As a matter of fact this point is so evident that to attach any importance to it or even to make a particular mention of it is absurd, and I do not think the Commissioners intended this meaning when they made the above remark.

If, however, the members of the Commission meant that in no form could the representative system of Government be introduced into any Eastern country and if such a step were ever contemplated the greatest caution would be necessary then I must strongly differ from this view. The remark would have been true if it had been made a few hundred years back. But now when the representative form of Government is the rule of the day and even countries like Persia and Afghanistan which are very backward both in respect of education and in regard to their relations with Western Countries, are making practical efforts to introduce this system and the efforts of Persia and Turkey in this connection are already meeting with some success and the far off Japan is giving a very nice show, it cannot be

honestly held that India which has been afforded an opportunity to make a closer study of this system and also possesses some experience in this line is unfit for the experiment. The history of the world belies that idea. It is true that England learnt the lesson of representative form of Government in the course of a good many centuries but modern France and Germany are certainly of more recent birth, and those countries did not take long to adopt the new system. Similar was the case with Poland and Austria. As a matter of fact though it may take long to prepare a model but when a model is once prepared it is a comparatively easy task to make a copy of it. The time taken in designing and making the first steam engine was not required when its subsequent copies were made. In the presence of a model it is not even difficult to make modifications in it in accordance with the special requirements of a locality. The members of the Commission and other Western writers agreeing with them are, therefore, quite wrong in holding that India is not fit for representative form of Government. Times have now changed. Temperament of one people may be different from that of another, conditions of one country may be at variance with those prevailing in another but those basic principles of universal unity which are fast finding way into peoples of all climes and all creeds must not be lost sight of, India cannot, of course, adopt the constitution of England in all its entirety just as



France and Germany cannot do so, but a modified constitution with representative form of government as its basis and conforming to the conditions prevailing in this country may certainly be thought out and successfully applied to India. There will of course be some trouble in the beginning and difficulties shall have to be met with, but is there an experiment that can be performed without facing dangers and difficulties? It is our duty to seek to lessen the dangers so far as possible but no sane person will refuse to take a step forward because of the dangers that attend it. If we do so we may or may not succeed in avoiding dangers which crowd upon us in every direction but we will of a surety shut upon ourselves all doors of progress and advancement.

### CHAPTER III.

#### Is India fit for responsible Government ? If so, to what extent.

Before we proceed to discuss the problem relating to the future constitution of India, we must first answer one important question : Is India fit for responsible government ? if so, to what extent ? and what are the moral or political grounds on which her claims are based ? unless this question is first answered, and unless we succeed in establishing a principle in this matter, all our discussions will prove barren of result, and instead of helping to solve the problem before us, they will only make it the more complicated. Before considering the recommendations of the Simon Report, or those of any other report, or before the British and the Indian delegates to the Round Table Conference proceed to exchange views at length, this question must be definitely solved. A satisfactory solution of this point will considerably facilitate the task, and will make all other questions relating to the Indian problem yield to a ready solution, otherwise it is obvious that a person who denies to India all right to freedom would be of no help in deciding as to the measure of freedom. India is fit for and, similarly the person who holds diametrically opposite views demanding complete and immediate independence would not be able to take part in the deliberations relating to

the safeguards required in the future constitution. In fact no settlement is possible between men of such divergent views and if through threats or persuasion they be induced to come to some sort of understanding, that understanding will be based on no principle. Moreover it will be a thing in which one part will contradict the others and the various parts instead of agreeing with one another will merely correspond to the specific contingency under which they would be adopted, and every intelligent man will admit that such a scheme will be most dangerous and full of menace to the best interests of the country.

Under these circumstances I have decided that I should first express my views on this important point and try to contribute, as far as I can, to its solution. I will first take the first part of the question, namely: Is India entitled to any measure of responsible government?

This question can be answered from three different viewpoints *i. e.* from the moral points of view, from the political point of view, and from the viewpoint of religion. I will leave alone the last point of view, as England and India, and the different communities inhabiting India hold different religious beliefs and it is futile to expect them to judge things from one standard. Of the remaining two standpoints, I will first take the moral one.

On August 20, 1917, in his speech in the House of Commons, referring to the Indian problem, the late Mr. Montagu said :

“The policy of His Majesty’s Government, with which the Government of India are in complete accord is that of the increasing association of the Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible Government in India as an integral part of the British Empire.” Subsequently, in the preamble of the Government of India Act, 1919, the British Parliament, repeated the above declaration word, for word, and thereby expressed themselves to be in agreement with the above view. It may further be added that Mr. Montagu did not make the above declaration as an expression of his personal views; it was on the contrary the admitted and unanimous declaration of the British Cabinet then in being. It would further more appear from the Simon Report, that the words “responsible Government” as embodied in the above declaration are in Lord Curzon’s own handwriting. Thus, the declaration carried the sanction of not only the Government of India, who have many a time clearly expressed their agreement with it but also that of the British Cabinet and the Parliament.

The King-Emperor did not make a formal confirmation of this declaration at that time but on March

15, 1921, His Majesty sent an Instrument of instruction to the Governor-General of India which contained not only a confirmation of the said declaration but also His Majesty's warm approval of it, for referring to this declaration the Instrument said: "For above all things it is our will and pleasure that the plans laid by our Parliament for the progressive realisation of the responsible Government in British India as an integral part of our Empire, may come to fruition to the end, that British India may attain its due place among our dominions."

These clear and unequivocal announcements emanating from His Majesty the King-Emperor, the British Parliament, the British Cabinet and the Government of India conclusively prove that the English nation stands pledged to conduct the government of India on such lines as will ultimately lead to the realisation of self-government for the different parts of the country, and that of complete responsible Government for India as a whole. It is a clear and definite promise which England cannot now morally go back upon. She may, of course, if she likes without incurring any legal or technical responsibility, postpone the fulfilment of this promise by taking shelter behind the word "gradual" and other similar terms, but the moral responsibility will rest heavily upon her. When kingdoms and empires disappear, as should everything of this world, the only thing by which they are remem-

bered and which goes down to history is their good or bad name. And England if she does not redeem her pledge, will suffer irretrievably in that respect.

Some people contend that in the declarations mentioned above, the words contained, are "Responsible Government", and not "Dominion Status," and that there is a great difference between the meanings of these two terms. This has been argued by certain Englishmen whom I greatly esteem and look upon as friends, but yet I must differ with them. In the above declaration there are three clauses which deserve to be studied particularly.

The first is : " the increasing association of the Indians in every branch of the administration". The word "increasing " as used here admits of no limit. It implies a continuous and unrestricted progress till the final and natural goal is reached, the words signifying that the Indians shall continue to be given more and more posts, and those of the greatest responsibility, till they acquire full control of the executive.

The second clause is "gradual development of self-governing institutions". The term "self-governing institutions" as used in this clause must include not only municipalities, and district or local boards but provincial governments, as well for obviously municipalities and district boards cannot truly become self-governing unless they are controlled by provincial go-

governments that are themselves self-governing. No district board can work independently of the government of the province in which it is situated and consequently it cannot be called a self-governing institution unless the provincial government which controls it is likewise self-governing. Thus it is, that this clause holds out a clear promise of complete provincial autonomy established under the accepted principles of self-government.

The third clause runs as follows:— “With a view to the progressive realisation of responsible government in British India as an integral part of the British Empire.” This clause clearly establishes that in the foregoing two clauses the object in view is to lead India to the realisation of full responsible government with the only reservation that it should remain within the British Empire. In other words India is to get that final stage of self-government beyond which there is nothing but complete independence and severance of all connection with England, and this is what is known as Dominion Status. It is evident that between dominion status and complete independence there is only one step, and if any dominion decides to take that step it would cease to be a part of the British Empire. Now as India has been promised that stage of self-government beyond which a single step would make it cease to be a part of the Empire, it is clearly wrong to assert that India has not been promis-

ed dominion status. As a matter of fact this promise implies an undertaking on the part of England to grant both Provincial Autonomy as well as control of the Executive by the Indians till by stages the central government of India is raised to the status of full responsible government in which she shall get every thing short of complete independence.

Without however going into any lengthy discussion like the above, we can prove in another manner that responsible government means dominion status, and that that is the meaning which students of political science have always assigned to it. Doctor C. F. Strong, M. A., Ph. D., in his book the modern 'Political Constitution' writes :—"A self-governing dominion is one which has responsible government and what is called responsible government is in practice nothing more nor less than the application of the cabinet system to colonies where the executive function was formerly in the hands of the Imperial Government. For responsible government means not only that the dominion to which it applies shall enjoy a liberty of legislation where its own interests are concerned, but that its executive shall be controlled directly and absolutely by the chosen representatives of the people," (page 222.)

It is clear from the above that according to recognised authorities on constitutional law responsible gov-



ernment does not merely mean that a people should possess the power to legislate for themselves but that they should also enjoy full control of the executive through their chosen representatives. Does Dominion Status mean any thing more than that ?

I will quote one more authority. Mr. W. Wilson, ex-President of the United States of America in his book... the "Constitutional Government in the United States", writes : " Self-government is the last consummate stage of constitutional development," ( page 52).. Now as England has promised to grant self-government to India, and self-government means the " last consummate state of constitutional development," it follows that India has been promised to get dominion status, for what is there in Dominion Status, more than the last consummate stage of constitutional development? In short it is clear from the above quotation that England has pledged herself to grant Dominion Status to India, and now she is morally bound to carry out her pledge. Those who advise her to the contrary are only endangering her reputation, and trying to sully her fair name.

Now I take the second viewpoint *i. e.* the political one. Here the question is whether India is politically entitled to or fit for freedom? - In my opinion, the answer to this question must also be in the affirmative. Political rights are of two kinds, those which are

earned through capability and fitness, and those which are acquired through services rendered.

With regard to the latter India has amply proved her right in the last world war by her noble sacrifices in the cause of human liberty and freedom. During that world cataclysm, England made repeated appeals to India for help against the German aggression, saying that Germany was threatening the liberty of the nations and that in that critical hour India should come forward to help England. Everybody knows how splendidly India rose to help England on that occasion. India provided more than a million men of all ranks, a truly remarkable number, considering that she had no personal interests involved in that struggle and had no gain to expect. A subject people have little scope for choice and preference, it being a matter of comparative indifference to them whether they are ruled by this country or that. An average Indian therefore could not make much distinction between the English and the Germans for it was all the same to him whether the British got the upper-hand or the Germans. But mindful of the old connections, connections though merely of the ruler and the ruled, India responded most generously to England's appeal for help, and laid down everything at her feet. Let not England judge India's sacrifices in the light of the present conditions of peace and security. Let her remember and see them in the

light of that time of great stress and anxiety when she was always looking anxiously towards Dover, and when her brave daughters used each night to go to bed weighed down under a load of anxiety, and in breathless suspense awaited the news of England's patriotic sons from across the channel where they lay encamped exposed to all sorts of dangers and privations, when England's married women rose each morning with hearts beating with fear for the safety of their husbands at the front, and scarcely knowing whether they possessed living consorts or had already become widows to mourn their loss, when small children with wondering eyes looked up at their mother's face unable to account for the mortal paleness which overspread her face and for the look of haggard anxiety in her eyes; when many a mother with wistful eyes fondled her baby who had never seen nor could hope to see his or her father; when Englishmen meeting in any place asked each other with anxiety as to what was going to happen next; when England's liberty, which she had jealously guarded through a period of seven centuries and which had now attained its perfect form, was at stake and every moment in danger of being destroyed, ay, when, in that critical hour a mere smile of friendship was regarded as a service and a word of praise and act of loyalty,—let England calmly place herself in that position and then say whether India, which had no personal interests involved in the war and was in no way affected by it,

did not act with remarkable loyalty and generosity towards England, and whether she did not rise to help her with all the resources at her command.

Let alone the Ahmediyya Community, of which I am the head, for through the courtesy of our opponents it has gained notoriety as being a flatterer of the Government and unshakably loyal to it; and take the case of Mr. Gandhi, that born, uncompromising, non-co-operator. Was he not in those critical days of England going about exhorting the people to help England with recruits. The military tribes of India sacrificed the flower of their manhood at the altar of England's liberty. Now, however, when that time of danger has passed, some Englishmen are heard to say that whatever the Indians did during the war, they did for the sake of monetary gain. Alas! how goodness is requited! Did English soldiers fight on empty stomachs? Were they not paid by the Government? Evidently one who goes out to fight for a country must be maintained at that country's expense but no sane person would call it the price of his life. Lives are not purchased so cheaply. Individuals tired of life may out of mercenary motives be induced to lay down their lives, but you cannot induce whole countries to fight for you for monetary consideration whatsoever. If to accept a remuneration for a service rendered bespeaks mercenary motives, then it is not the Indians alone who fought for money but the Allies and Ger-

mans and their confederates all equally fought for it. But as the one is wrong so is the other. As to the zeal and loyalty with which the Indians came to the help of England; I will let my friend, Sir Michael O'Dyer, the late Lieut.-Governor of the Punjab, which is in reality the only fighting province of India, speak.

Sir Michael says :—

“The splendid response which the Punjab made to the Empire's call was the more remarkable, because the experience of the previous campaigns and especially of the Second Afghan War had shown that it was very difficult to raise recruits in any number during a war even on India's land frontiers. ....” Finally more than half the Punjab population is Mohamedan, and it was considered by those who had only an outside knowledge of the rural Mohamedans that they would hesitate to come forward in a war against Turkey and waged in such lands as Egypt, Palestine, Mesopotamia which had been under Turkish rule and contained the Holy Places of Islam. “All these pessimistic anticipations were speedily falsified. At the beginning of the War the Punjab had about one hundred thousand men of all ranks in the Army. At the close of the war no less than half a million had served with the colours. The number of fighting men raised during the four years of war was roughly three hundred and sixty thousand more than half the total number raised in India—and of these one half were

Punjab Mohamedans who enlisted with the knowledge that they were going to fight the Turks, and who, with a few insignificant exceptions remained true to their salt in spite of the most persistent and insidious attempts to shake their loyalty." (India as I know it, pages 215-216). Again on page 219 of this book, referring to the people of the Punjab, Sir Michael writes that they had "from the beginning made such a spontaneous response to our appeal." This is the testimony of a man who, in my opinion, after Lord Kitchener and Mr. Lloyd George, perhaps played the most splendid part in saving England in that critical hour but of whose services not one-tenth has been acknowledged.

This in short is the record of sacrifices made for England by a country who had no personal interests involved in the struggle. It is sometimes asserted that it is only the Punjab which rendered this service to the Empire, and not the rest of India. But let it be known that we of the Punjab do not dissociate ourselves from the rest of India. The Punjab being a pre-eminently fighting Province, contributed fighting-men, while the rest of India, being of different character and having different conditions, helped with money and labour. In short, the whole of India unitedly rose to help Britain in her hour of need, each part of the country rendering willingly and spontaneously whatever help it could.

It is, however, wrong to say that the rest of India did not contribute fighting men to the Army, for as Sir Michael points out on page 225, of his book, the Government of India did not try to recruit combatants from other parts of the country until some six months before the termination of the war, when they were able to raise some 183,000 recruits for the Army.

It is true that after the war there set in a period of restlessness in India, but that was due to the fact that no regard had been paid to the feelings of India. The services of the Muslims, who had contributed so much to bring the war to a successful end, received no recognition whatsoever. Nay, their susceptibilities were rudely insulted and some Englishmen even began to openly mock and belittle the services of the Indians by imputing to them monetary considerations. But that cannot change the hard stubborn facts of history, and the truth must remain that in the last great war which is called the war of Independence, India played such a noble and distinguished part as entitles her to take her place among the civilized nations of the world, and makes her deserving of the largest measure of self-government and freedom within the Empire.

#### INDIA'S FITNESS FOR FREEDOM.

Now I take the second part of my question, which relates to India's title to freedom based on capability and fitness.

I have made a deep study of this question, and I must admit that I am at a loss to understand how any country can ever be unfit for self-government. If a people are in a low stage of educational or cultural development, they will correspondingly require less ability to rule, and their elders will never be found wanting in qualities required to rule their own people.

The standard of ability and fitness can be held to be true only if the principle of eugencies were accepted in its entirety. But the principle of eugencies is opposed to the true spirit of democracy. If this principle were to be accepted as true, then it would follow that the administration of the government of a country should be vested only in the hands of its few professors and philosophers to the exclusion of everybody else.

Moreover, the term ability and fitness is a vague one. It does not mean a mere book-learning, nor only linguistic attainments. A person or a people may be quite illiterate, and yet may be competent as a ruler. Lord Bryce, one of the greatest authorities on constitutional law says:

"The masses may be found to have in some countries acquitted themselves as well as what are called the educated classes." (*Modern Democracies*, Vol. I, p. 89)



History affords instances of countries where the people without being highly or widely educated, have established and carried on responsible governments quite successfully.

It is therefore wrong to suppose that as the Indians are not as highly or as widely educated as the Europeans of to-day are, they are unfit for self-government. The Indians may not be able to rule over other countries, but they are certainly able to rule over their own people. The truth is that excepting those few cases where one nation is forced by circumstances to temporarily occupy another people's country, there never has been any nation nor will ever be one so long as the nations of the world remain within the pale of humanity, that can be regarded as fit to rule over another people against their will.

As a matter of fact, according to the science of politics, ability to rule consists merely in a true desire to rule. This is a most important and fundamental point which should never be forgotten. When a country has truly conceived and developed such a desire, we must conclude that the time has come when the government of that country must be handed over to its people. In fact the desire to rule counts much more than the factor of education does. The following passage from Lord Bryce is full of truth :

“It is said with truth that knowledge and experience as well as intelligence are needed to fit a people for free self-government. But a still grave defect than the want of experience is the want of desire for self-government in the masses of the nation.” (Modern Democracies, Vol. II. p. 548) If now it is true that no people can attain self-government, unless they first develop a true desire for it, it must be equally true that once a people have conceived that desire, it is dangerous to resist their desire as it is to play with fire.

The recent history of India bears ample testimony to the fact that the desire to obtain self-government is widespread and universal. A radical change has come over the country. From personal knowledge I can say that while twelve years back this desire was confined only to the few educated Indians, to-day it has penetrated into all grades of societies and even the masses are clamouring for freedom and self-government. Being the religious head of a community, I have frequent occasions to come in contact with the rural people, and I see that even in places where the people are quite illiterate, the talk of the village folk frequently turns on the question, when will India get freedom?

It indeed greatly astonishes me to hear of the illiterate village folk, the oft repeated question whether

the English people were going to concede them any thing at all. Twelve years ago nobody ever imagined that such a question would agitate millions of hearts in India. One cause of this change was the last European war, which was a great contributory towards the general awakening of India. During the war Great Britain did a good deal of propaganda work to win the Indian sympathy by representing the Germans as aggressors against the inherent rights of every nation and people to self-determination. Great stress was laid on the English being the aggrieved party who were out to defend the birthright of every nation to live their own lives. This propaganda on the part of the British people infused into the Indian mind what no Indian leader could hope to do so soon. Thus the British propaganda has itself been responsible for the revolutionary change that has come over India. But after all every effect has some cause.

Another reason for this popular change in the Indian mentality is the attempt on the part of the Indian National Congress to draw the attention of the Indian people to the deprivation of some of their rights at the hands of the British Government, with the result that the people have come to think that the change of government is necessary for the restitution of their rights and the lessening of their burdens. During the last four years the zamindars in the Punjab have been having

a very bad time of it. The destruction of the crops by floods and draughts coupled with this year's abnormal fall of prices has broken their backs. It has been represented to them that alien rule is at the bottom of it all and that the sole remedy for this state of affairs lies in the substitution of self-government instead of the present foreign domination. That is why even the masses have begun to favour a change. They may not all have the courage to say so openly, but some of them do speak out their mind, while in their private talks they all speak of it.

This desire for a change on the part of the Indian people may be attributed by some to temporary causes but that does not in any way minimise its importance. It is just possible that self-Government may not succeed in removing those difficulties, but while in difficulty people never care to go into the question of the usefulness of the proposed change. They simply bear this in mind that the present state of affairs does not help them out of their difficulties, and they want to break through it at any cost so that they may try a new remedy however unwise it may be. The movement for freedom in England too was inspired and advanced by momentary causes.

Magna Charta was not the result of any political study on the part of the people but merely the out-

come of King John's supposed or real tyranny. It was just to escape this oppression that an attempt was made to wrest this charter of rights from him. It was thus not the result of any political consciousness, rather it was the latter that followed it. Anyhow such arguments do not effect a people whose thoughts have undergone a revolutionary change. All that is needed in such circumstances is to see whether it is a popular demand. That it is popular is evident now everywhere in India. If a referendum be taken at present it will surely come as an eye-opener to those who deny the existence of such a state of things. The boycott movement started by the Congress is another evidence of the fact that the desire to attain freedom is genuine and widespread and it has permeated every class of society. Now that the demand is there, it is the duty of England to tackle this question in all sincerity and should honestly set about finding a solution for this state of things.

One should not be led away into a false position by the supposition that the proposed new experiment is fraught with dangers. In any new experiment one has to run risks and face dangers. But as Lord Bryce has said, "Errors and misfortunes there are sure to be, but so long as a nation is not enslaved or absorbed by a strong neighbour, failures are rarely irretrievable; and one of the values of the Government lies in the fact that misfortunes bring knowledge and

knowledge helps to bring wisdom, whereas under even a benevolent autocracy the education of a people proceeds slowly if it proceeds at all." (Ibid Vol. II, pp. 566-567.)

England ought to remember that she herself has played a great part in creating this political consciousness in India. People may not appreciate it but I am of opinion that India is greatly indebted to England for the creation of this desire for self-determination. Not only has England been the chief inspirer but by the Government of India Act of 1921 she has given an immense impetus to this movement. Such a step once taken can never be retraced. England ought to well bear in mind the memorable words of one of her greatest masters of political science whom I have quoted above at many places. Says he "there are moments when it is safer to go forward than to stand still, wiser to confer institutions even if they are liable to be misused than to forment discontent by withholding them." (Modern Democracies, Vol. II, p. 568.).

As a well-wisher of England, I and my Community have in the past always stood by the British Government whenever the cause of peace and order has demanded it. We have given practical proofs of our loyalty on all occasions of stress and anxiety and even now are fighting the boycotters and the dis-

disturbers of peace. But I would like to bring home to the British Government that the time has come when India should have an opportunity to try self-government, an experiment for which she is getting extremely impatient and nervous. That the time for such an experiment has really come is abundantly clear from the fact that the present Congress plans, in spite of their being most unwise and against all morals, are finding a ready acceptance and meeting with extraordinary success everywhere in India. This Congress sway over the minds of the public betokens a changed mentality which has almost upset their equilibrium and which England can ill-afford to overlook now.

### **Can Responsibility be conferred in the face of Hindu-Muslim Differences ?**

Whenever the question of India's freedom is raised some people bring up the question of Hindu-Muslim tension which they aver would end in destruction if self-government is granted to India. The other party is apt to meet this charge with the counter-charge of the government being at the back of Hindu-Muslim differences so that India may never be considered fit for freedom.

It should be admitted that differences, and that of the acute nature, do exist and they are an eye-sore

for every true well-wisher of India. Speaking of myself I can say that whenever I think of them I am filled with inexpressible grief and sorrow. But it is absolutely untrue that the British are the promoters of communal dissensions and that they out of policy set one community against the other. I don't mean to affirm that there are no black sheep among the British like some of the Indians, there may be some such Englishmen who knowingly put people at loggerheads, but I cannot for one minute entertain the suspicion that a people who have up till now set a noble example of humanity and wise statesmanship should as a whole or in majority be so far gone down morally as to scheme the ruin of another people by playing them off one against the other. If the dissensions and riots between the Hindus and Muslims had been confined to only one locality or to only those parts of the country which are under direct British rule one would have had reason to suspect this or that British official. But I find that these communal strifes are occurring in all parts of India and even under Indian officials and in the native states too where the British diplomacy cannot directly operate. In the face of these facts it is mean to level such charges against the British, and those who make these charges only exhibit their own low nature. Who was responsible for the tyrannical oppression of the Muslims at the hands of the Sikhs in the days of the Sikh rule in the Punjab? How are the civil commotions of Sivaj



under Aurangzeb to be accounted for, commotions that instigated the former to perpetrate cruel massacres of innocent Muslims. If communal enmity existed even before the coming of the English, if this mischief has been in full blaze owing to the insensate hatred of the Muslims by the Hindus ever since the decline of the Muslim power, how can we in fairness, foist it upon the British people or the British rule in India.

I must however, admit here that the British people are actuated, by the same feelings and susceptibilities that operate in the case of the other members of humanity. If an Englishman happens to be posted at the outset of his career in a place which is predominantly Muslim or where Muslim element is strong and active, he is sure to cultivate sympathy with them. The same is the case with his confrere, whose lot is cast among the Hindus. This tendency is natural and human and we cannot blame any officer for it. Man is a sociable creature. If he happens to come in contact with a set of people more than the other he is apt to get inclined towards the former and the British are no exception to this rule. It is no more a failing with them as with any other people. But if it is a failing, it is the selfsame Hindus who foist this accusation on the English people that benefit by it most, since they are in an overwhelming

majority in India and naturally the British officers would be more favourably disposed towards them.

As a matter of fact it is the Hindu mentality that lies at the root of all this trouble. Owing to the idea of untouchability and racial pride, a Hindu cannot co-operate with a non-Hindu, except perhaps with him about whom he believes that owing to certain causes he would always remain his inferior. This weakness, which is the heritage of a Hindu, has got embedded in his nature and it requires a good deal of effort to shake it off. Unfortunately however the Hindu leaders, owing perhaps to their pre-occupation in the more important work of winning freedom for India, have so far paid little heed to this matter.

But it is the height of injustice, to hold another answerable for one's own mistake. I hope to deal with this question elsewhere at some length and for the present I content myself with the statement that differences do exist in an acute form, and that the responsibility for them does not rest upon the British but upon the Indians themselves. Yet in spite of this India cannot be deprived of its right to enjoy freedom.

I admit that differences do stand in the way of responsible government, but then it is responsibility alone that can do away with them. The Hindu

prey to this schismatic tendency chiefly because for the last one thousand years he has been divested of the responsibility to govern. On the other hand the English being still in power and the Muslims having been in power in India till lately and being still in power in the neighbouring countries, they know from their personal experience that the progress which the inhabitants of a country can make through peace can never be achieved by fighting one another. But the Hindu being long deprived of power is possessed with the idea of crushing his opponent to pieces so that on the ruin of the latter he might base his prosperity. He is quite in the dark as to the innumerable means of progress a good statesmanship can evolve. To this idea of Hindu exclusiveness might be added his practice and belief in untouchability and caste system. Now the only remedy to all this is the creation of the sense of responsibility by conferring responsible government on India so that experience in practical affairs might convince the people that their salvation lies in mutual goodwill and not in discord and strife. That is the only way to acquaint them with the virtues of peace and harmony, and that alone can bring about an improvement in their social polity. Unless this course is adopted India can never stand on its own legs. Our efforts should therefore be to devise a constitution that would tend to eliminate as far as possible all sources of discord and not to make the

existing communal differences an excuse for withholding responsible government from India.

### **To what extent is India fit for freedom.**

Some people hold that India is fit not only for complete responsible Government within the Empire but that it should cut itself adrift from the British Rule and set up an independent government of its own. This is the view of the Indian National Congress and though the Congress is boycotting the Round Table Conference, but as there is the possibility of some one among the delegates raising the Congress viewpoint before the Conference I should deem it my duty to utter a note of warning before hand as such a course will not only be extremely detrimental to the best interests of India but also prove harmful to the interests of the world at large.

Whatever faults one may find with the British policy, there can be no gainsaying the fact that with the devising of the dominion system of government in actual operation in the British colonies, England has opened such a way to world federation and unity as in my opinion betokens a divine scheme of things for our future guidance. Unfortunately we are so much taken up with the questions of countries and nationalities that we have clean forgotten that we are all fellow

beings united in the chain of one common brotherhood of humanity. Despite therefore our individual holdings we should, like the independently set up sons of a sane father, remain united as brothers, and the differences of colour and clime should in no way affect our brotherly feelings. I may be termed a fanatic but I cannot help asserting that the Almighty God intends to reunite mankind after so long a separation and bring them together round one nucleus. Signs are not wanting to show that this Divine plan will work out sooner than most people would think. New means of swifter and quicker intercourse between nations are daily coming into existence. Nations are intermixing and their angularities are being fast smoothed out and not only is there a lip desire to meet each other but the world is passing through a tribulation which is forcing all contending factors to fuse into one harmonious whole. A sort of unity is evolving. One of the important harmonising agents which Almighty God is bringing into action in this connection is the League of Nations. Secondly, there is the present constitution of the British Empire which in my opinion is the best among the preliminary designs and a most hopeful augury for the world re-union. A tie of sentiment is binding the world scattered dominions of this Empire into one universal federation. There is no force or compulsion behind it. It is merely a willing partnership which

is at the back of it all. Every part is free sphere and absolutely autonomous as any other free or independent country. Yet they all co-operate in matters affecting their common interests and they all consider themselves as component parts of one whole. Call it mere sentimentality or flight of fancy, but I regard this system as the nucleus for the coming federation of the world and the true interpretation of the dream of world unions. Should India cement this federation of British Commonwealth of nations by joining it wholeheartedly, it will have rendered a great service to the cause of world union by forging another strong link of the chain. I believe that God in His wisdom has set about hidden causes to evolve this state of things, and by and by it will mature. Time and experience will gradually purge it of any defects that this system may contain as well as the last vestige of British superiority which is still retained leaving a perfect example of federated nations so much so that those people that now stand out of it will see the beauty of this system and being cured of narrow and selfish motives will seek to join this federation and in this way too will probably be fulfilled the Divine scheme of blotting out war from the face of the earth for a time, and peace shall then be established on a sure foundation. At that time England will be an equal member of that world-wide federation in which all shall stand on

the same footing, one central figure being the uniting link. It shall be a federation of free nations, which for the purposes of its common interests and to keep the members of the federation united will either set up a common ministry having no direct connection with the administration of any state, or the various ministers of the federated states will serve turn by turn to help in promoting this comity of nations while in their internal affairs the states will be quite free and independent. This should not be taken as a mere flight of fancy, but God the Almighty is surely driving the world that way and the day may not be far off when some such scheme, based on mutual love and goodwill, will be an accomplished fact.

Now that it is apparent that all things are tending that way and a world federation is in the making it would be the height of folly on our part to lose this golden opportunity which God in His wisdom and mercy has placed within our easy reach. Rather than unite let us beware lest we should knowingly or unknowingly devise ways of discord and strife. Let us make and not break. No doubt man has been endowed with immense powers by God, yet if a people were to work against the Divine plan it is sure to get shipwrecked on the rocks of adversity.

I would therefore request all the delegates as well as my other countrymen to exercise control over

their passions and drive away all thoughts of severing their connection with England for that would not only do no good to India but also render a great disservice to the cause of humanity.

In short separation from England is not only impossible but it is also opposed to the Divine Scheme of things. We ought to drop it altogether and confine ourselves to thinking out as to what measure of freedom within the Empire India is now fit for. If it were to pertain to future alone without any reference to the present, then I would unhesitatingly declare for the immediate grant of that dominion status which is enjoyed by the Dominions of Canada, South Africa and Australia. But unfortunately the present conditions of India cannot be ignored and taking these into consideration I would, without the least fear of popular disfavour, declare that India is not as yet fit for complete autonomy as implied by the term 'dominion status'. Rather than call it a blessing I would unhesitatingly declare it to be a curse. I have already said that experience is a great teacher. But there should be a limit to experimentation. Too much of it might lead to chaos and ruin. It would not be therefore wise to demand experimentation with full-fledged dominion status, for regardless of ultimate success or failure we might not under our present conditions even be able to see it through. Ignoring



external dangers, for they may be imaginary, do we not possess disintegrating factors within ourselves? Let alone gaining strength and union through this experiment we shall soon be past all hope of settlement and the world shall witness a scene of havoc and destruction which even the history of Medieval Europe would hardly parallel. We are seeking to become a united nation but the experiment would even rob us of our communal polity

Again it is easy to vociferate on the stage or pulpit, or to pen down the opinion that India is fit for the stage of complete freedom, but we cannot overlook hard facts. Where is the navy to protect our shores and commerce? Where is the army to defend our frontiers and keep peace in the country? Where are the institutions to fit our youths for carrying on our civil and political services? It is easy to allege that the Englishman is to blame for this state of things; and it is not for me to go here into the question of apportioning blame. What matters is whether we can have complete responsible government under our present circumstances. The mere putting of blame on the English will not change our lot. We ought not to be misled by the case of Ireland. There is a vast difference between Ireland and India. Ireland was a part and parcel of Great Britain and already possessed all the mechanism that goes to

make an independent state. The Irish occupied high posts in the army and her sons were experienced in all the departments of state and statecraft. More over Ireland is a small island which owing to its nearness to England is absolutely safe from any foreign invasion, be it military or naval but such is not the case with India. Last of all Ireland is a country, inhabited by one people professing one religion without those disintegrating influences which are the bane of India.

The same holds good in the case of other countries that gained independence after the Great War. Even before the formal declaration of their independence, they were subordinate only in name, each of them having an autonomous administration of its own and being fully associated in the work of government. But this is not at all the case with India where autonomy can only be started in the provinces where the machinery of administration is already mostly in the hands of the Indians. As to the Central Government, it requires a good deal of preparation to make it autonomous. The Phillipines are a case in point. The United States of America fought Spain to let Cuba and the Phillipines free, but despite the will to confer freedom they could not do so, for these countries could not stand on their own legs, hence the need for supervision and direction, Cuba is though compar-

actively free now but the Phillipines are still more or less under the tutelage of the States.

Four things are quite indispensable for complete autonomy:— (1) Officers capable of running the army department, (2) munition factories, (3) Aeroplanes and aeronauts along with capable officers and (4) Navy not only to protect the shores against invasion but also to defend the commerce and mercantile marine of a country. There are sundry other things but one can do without them for a time but these four are absolutely essential and India separated from England possesses none of these. Indian military officers holding Viceroy's Commission, or young Indians holding King's Commission, cannot be supposed to take over in a single day all the responsible military posts, nor can the navy and naval staff and other requisites be created in a day.

We cannot say that we shall maintain friendly relations with our neighbours, for that depends upon the attitude of our neighbours and who can say that the attitude of our neighbours will always remain friendly towards us? Their present friendship cannot be trusted for the future. The very day Italy swooped upon the Turkish Province of Tripoli the Italian Prime Minister publicly acclaimed Turkish friendship alleging that the two nations were never more friendly. At present we are not only threatenec

on the Afghanistan side but on that of Russia and Nepal as well. In the olden days people living in the North and North-East of India never thought of invading India, but during the last days of the Moghal Empire the Nepalese had begun to dream of extending their conquests in the Indian direction. For once they were checked by the English, but who can affirm that a free India will be equally successful in repelling them off? Could we depend upon the English to defend us from distant England. If the case of war is far removed, defence can never be successfully carried out. Neither can we affirm that with the departure of the English the war machinery in India will remain in the same state of efficiency, hence under the present circumstances we shall be forced to accept English control and direction in the affairs of the Central Government for a time and consequently we cannot help admitting that it is only in stages that we can achieve the full measure of responsibility.

## CHAPTER IV.

### How to Determine Different Stages of Reform.

The foregoing chapter automatically leads us to the question that if complete self-government cannot be immediately granted and the process of proceeding by stages is for the good of India itself than what steps should be taken so that at every stage India may obtain the measure of freedom she may be fit for. This problem has been sought to be solved in two ways. One solution was suggested in the Montague-Chelmsford Report and that was to the effect that after every ten years a Royal Commission should be appointed and this commission should report as to the progress made by the country during the decade and as to what further measure of reform should be granted. The Simon Commission however does not approve of this scheme. On the contrary it attributes the greater portion of the political agitation in India to this very measure. But considering the condition prevailing at the time when this provision was made I do not think it was an ill-advised one. At that time it was necessary for

the maintenance of peace and order that some sort of assurance should have been given to the people of India that the Montague-Chelmsford Reforms did not constitute the last word of England to India but that before long another measure of freedom would be granted and so on. A new experiment was being tried and the framers of the Montford Scheme did not know what was going to come out of it. The history of the last ten years which has so much helped the deliberations of the Simon Commission was not available to Lord Chelmsford and the late Mr. Montague and hence their scheme that the reforms should be revised after every ten years' was obviously the best that could be thought of at that time. Again it is not right to say that the political agitation in India has been mainly due to this provision of the Montague-Chelmsford Scheme. The Indian unrest is on the contrary due to the fact that a considerable number of political leaders in India believed that the Montford Scheme had given them much less than India had a right to enjoy. Nay the very idea that further reforms would be granted to India after ten years exhorted a wholesome influence on a section of Indian political thinkers who would have otherwise undoubtedly joined the agitation

started by the extremists. It is, therefore, quite unwarrantable to condemn the Montford Scheme on the ground that it has given rise to agitation and unrest. In view, however, of the changes that have come over the country in the past ten years I must admit that the solution suggested by the Simon Commission is decidedly better and more advantageous for the future. In the words of the Commission that solution is that, "the new constitution should as far as possible contain within itself provision for its own development. It should not lay down to rigid and uniform a plan but should allow for natural growth and diversity." (Vo II, p. 5). This finding of the Commission is in my opinion one of the best they have given us. If Sir John Simon and his colleagues have been successful in devising a scheme fulfilling this object they have truly earned the eternal gratitude of India. In accordance with this principle there would in future be no commissions and no inquiries, the Parliament once for all passing an Act that would secure for India a natural and automatic growth till she reaches the final stage of complete freedom within the Empire. But it gave me keen disappointment to find that in their actual recommendations the members of the Commission

seem to have given no thought to this matter. It appears that either they practically forgot the point altogether or with them the conception of India's freedom was different from the conception of freedom as applied to other countries.

I would first take the case of the provinces. In view of the existing conditions the Simon Commission has recommended that (a) the Governor should act as president of the ministers' cabinet, that (b) he may appoint ministers either from among government officials or from members of the Provincial Council or from outside, and that (c) he may at his discretion either first appoint a chief minister and then at his recommendation select other ministers or if he thinks desirable he may himself appoint all the ministers selecting them from the different communities and classes in the province. Now everyone who is familiar with principles of constitutional government will readily recognise that by no stretch of imagination can such a government be called a responsible government and a system of this nature if at all desirable can only be applied as a temporary measure. The report of the Commission is however quite



silent as to how this system would be changed in future. The power to change the system can possibly be vested in one of the following individuals or bodies:—

- (a) the provincial governor
- (b) the Governor-General
- (c) the Secretary of State
- (d) the Provincial Council and
- (e) the Parliament.

Now if the power is vested in the governor any governor would be free to cancel the order of his predecessor with the result that the system of government would lose all stability.

If it is vested in the Governor-General or the Secretary of State the question arises, what will be the constitutional procedure to bring it about and that question remains unanswered in the report. If the Provincial Council is vested with that power the very first sitting of a council would see the change of the proposed system and hence the futility of the provision. Lastly if the Parliament is to be the final authority in the matter the question of the appointment of a new commission and the making of a new enquiry again comes in for no Parliament would

be in a position to arrive at a decision in the matter unless a detailed and illuminating report is submitted to it.

The problem of the Central Government presents an even greater difficulty. The Commission does not here at all recommend a representative form of Government. How will this system then be changed if India is to advance at all? The Commission gives no answer to this question. Nay the members of the Commission plainly admit that they have not been able to think out a solution of it. Says the report, "while it is possible to frame a constitution now the provisions of which will be in harmony with future development we do not think that within the compass of a single statute provision can be made for a continuous evolution of the main Government of India by the method of internal adjustment and growth." (Vol. II p. 8). Considering the real and main question was that of the Central Government (it being easily possible to devise a fairly workable constitution for the provinces by making suitable changes in the existing system) the above quoted words of the Simon Commission mean that whereas the Montford Scheme had

at least made a provision for the periodical revision of the constitution of the Government of India, the Simon Commission has been satisfied to merely emphasise the difficulty of the situation without suggesting any remedy whatsoever. Sir John and his colleagues have certainly established an excellent principle in this connection but they have hopelessly failed to frame their actual recommendations in the light of that principle. I would try to throw more light on this weakness of the report of the Simon Commission when I proceed to consider the details of their recommendations.

## CHAPTER V.

### Twofold difficulties of India. An understanding with England and a Solution of the Problem of Minorities.

Now we turn to the very knotty and complicated question of what constitutes the main hindrance in the way of India's constitutional advance. There is no doubt about it that owing to the fact that England has for so long a period been the ruler of India an understanding between the two countries is not an easy matter.

But more difficult still is the question, what measures should be adopted to ensure a system of government in which only those persons should find their way to power who may be truly deserving of it and not those who may make the very fact of their coming into power a means of creating discord and disunion. How true are the words of Carlyle when he says, "Mock superiors shaken off, the grand problem yet remains to be solved; that of finding government by your real superiors. Alas! how shall we learn the solution of that." This remark

holds true of all nations and all countries but it assumes special poignancy with regard to India. Surely an understanding with England is not so difficult as the question, what system of government would best suit our conditions.

India is a cockpit of warring classes and communities among which prejudices and differences of the acutest nature have free play as if God had particularly chosen her as the home of internal discord and strife. Self-government without safeguards would under such circumstances will only help to make matters worse. In view of this state of affairs there are persons who hold that till these conditions continue India should be granted no further measure of freedom. But as I have argued above this view also is entirely erroneous. If India does not get freedom these differences will never be removed and the gulf separating the various classes and communities will go on widening for ever and ever.

### **Is there no Security for the Right of Minorities in Democracy?**

There are some people who hold that the essence of differences is no sign of unfitness at

all. On the contrary to regard it as such helps to augment differences.

This section of the people argues that if India wants democracy then she should give up all concern about minorities for as they allege the very object of democracy is that the majority alone should rule. Under a democratic form of Government they say, the only way open to a minority is either to identify itself with the majority that be in power or to strive to make itself a majority in the country. Hence to demand a democratic form of Government and at the same time to put up the claim that the majority community should not rule or that its government should be fettered by such and such special limitations is on the one hand tantamount to defeating the very object for which democracy stands, and on the other to opening the door to unceasing strife and discord. Generally this point is raised by Englishmen or other Westerners. The object is sometimes to impress upon the Muslims the desirability of keeping away from making any demand for the freedom of India for, as it is alleged, in that lies danger to their interests while at other times question

arises from the ignorance of Indian conditions and affairs.

What I want to stress here is that this view is due to the misunderstanding of the real import of democracy. Every government by majority cannot be called democracy for by democracy is really meant that majority government in which the party in power looks after the interests of the country and not of any special class or community. The government of a country inhabited by ten million persons of one community and only one million of another shall not be deemed to be a democracy if the former being in power look only to the interests of their own community and not of the country as a whole. For instance the Government of England was not democratic when the Roman Catholic majority was framing laws against the Protestant minority of the country. Democracy then is the term given to that form of majority government which is solely based on matters relating to the functions of government. If therefore any party in power returned through a majority of polling were to concern itself with matters other than those pertaining to the functions of government the government of the

country would lose all claims to be recognised as a democracy. Mr. C. F. Strong, M.A., Ph.D., defines democracy as "that form of government in which the ruling power of a state is legally vested not in any particular class or classes but in the members of a community as a whole." (Vide Modern Political Constitution p. 163.) Though Mr. Strong has qualified his definition as "Legally vested" in a class or classes but there is no difference in legal or practical vesting. Whether legally vested in a class or practically usurped by it, it is illegal and does not deserve the name of democracy. In fact popular and representative form of government implies the essential interests of the whole rather than class interests which are quite beyond its purview. To illustrate the point we may take the case of a judge who is holding inquiry into a case. If his verdict is confined to the evidence on record we cannot doubt his bonafides, but if in disregard to what is on record he bases his decision upon irrelevant and outside considerations we shall condemn his action as *ultra vires*. *Apropos* of the subject of democracy Lord Bryce remarks, "No less than any other form of government does democracy need to cherish individual liberty"



(Vol. I, p. 67), which means that it is no democracy where individual rights are not scrupulously safeguarded and where minority interests are sacrificed.

It is also necessary to bear in mind the fact that there can be no real democracy without a written or unwritten constitution, the object of which is to safeguard the rights of all individuals and communities. The question of minorities in India must be judged from this point of view. If the majorities and minorities in India are merely political divisions based upon the changing views of the electorate, as are the party systems in the West, there would be no harm in sacrificing or ignoring the minority altogether leaving the majority to rule undeterred. But if, as is evidently the case in India, the parties are based upon the fixed landmarks of religion and nationality then the majority rule is nothing but a class rule and in such a case the majority has no right to rule the minorities unfettered.

If we were to admit the principle that a class or a community is entitled to rule over another class or community without any restrictions and safeguards merely on the score of its numerical strength then there would

be an end to all scientific, educational or cultural advance. Every new intellectual wave and every new science first attracts only very few admirers, the majority being not only opposed to it but even ready to crush it at any moment. If therefore this principle of majority rule were left unchallenged, we shall have to admit the justice of all those wrongs that have ever been perpetrated in the name of religion or philosophy. But human nature has never accepted their justification. If the principle of unrestricted majority rule were accepted there would be placed an unsurmountable barrier in the way of social and religious reform as well as all advance of science and knowledge. The world has never suddenly awakened to find itself changed intellectually, politically or religiously. These things are naturally of slow growth and as history tells us they have in the beginning ever been nurtured with jealous care by very small and apparently negligible minorities. The salvation of the world, therefore, lies in the safeguarding of the rights of minorities. Disregard this principle and a chaos is sure to follow in every branch of human activity and the world will be deprived of all intellectual and moral progress.

Those who favour the leaving of the solution of this question to the good-will of the majority, also do not pause to think that all minorities are not similarly constituted, nor are all interests worth sacrificing. There are things of eternal weight which can never be given up at any cost. Where would have been the world to-day if Galileo had failed to hold to his principle of planetary movements. Those who counsel thus ought first to consider whether the minorities in India are based upon their attitude towards Tariff Reform or Income Tax in which case they could safely be ignored, but if their very being is based upon religion, a thing of eternal verity and more sacred than even freedom and nationality, then surely it is impossible for a minority to suffer being crushed under the heels of a majority who enacts what laws it pleases to annoy the other into emigrating to some other land or force its conversion into its own religious fold or else to reduce it to the position of a slave community. Every sensible man can see for himself how utterly unjustifiable it is for a minority community to be forcibly subjected to the rule of the majority under circumstances like the

above and I will prove it later on that a similar state of affairs exists in India.

### **Shall Experience teach Tolerance.**

There is yet another school of thought which admits that the interests of a minority should be safeguarded but deprecates the method of safeguarding them through laws and enactments. It maintains that tolerance and mutual understanding will of necessity follow responsibility and experience. All efforts it insists should be bent towards the establishment of a truly responsible and representative form of government, majority or minority whichever is in the wrong will of itself set itself right owing to mutual contact and understanding, and both will be finally forced to be drawn towards each other. That is the Hindu point of view. But it is obvious that it holds good only in cases where the point in issue between two communities is only of minor importance. But where the point at issue between the two is of fundamental importance and where the majority is bent upon crushing the minority out of existence no sane person can plead or prescribe the same. Where experience shows that the majority is actually annihilating the minority, how can we

maintain that mutual intercourse will improve the situation? If it is a fact that despite association of the major and minor communities in various departments of administration and in social life, the former has never hesitated to injure the latter, how can the latter be assured against future molestation. In cases where the differences are minor one could venture to suggest such an experimental period in which an automatic adjustment of relations could be awaited. But here the differences are fundamental, and pertain to vital matters, and the majority community is already working the ruin of the minority. It would be therefore an act of cruelty to knowingly doom a minority to perdition merely on the supposition that matters would somehow or other finally right themselves.

I will now take up the question that in India the relations between the majority community and the minority are of utmost importance and that unless these relations show signs of sure improvement the minority community cannot be thrown at the mercy of the majority.

### **How Hindus treat Minorities.**

In India the Hindus are in the majority, while the Muslims, the depressed classes, the

Europeans and the Anglo-Indians constitute the important minorities. There is no need for me to dilate at length on the question of the depressed classes for that question has already frequently come before the the English people. I just want to say here a few words as to the treatment meted out by the Hindus to the other minorities so that those who are still in the dark as to the intentions of the Hindus, may know that the latter are extending the same treatment to the other non-Hindus as they have done to the depressed classes and the untouchables and that so long as they keep up this mentality no community can trust them. First of all take up the question of social intercourse for that is one of the best means of promoting mutual understanding, love and toleration. The commonest thing in this connection is the practice of shaking hands with one another at the time of meeting. All people do it and there is no doubt about the fact that handshake has a peculiar virtue of transmitting warmth and cordiality, and it is the least visible gesture of good-will expected of a human being. But the Hindu is such a slave to his social customs that despite the fact that he may be so well known to you he would never shake hands with

you when he meets you. He would do his best to avoid shaking hands by lifting up his folded hands, by way of salutation or he would even bow down to touch your knees, but so far as it lies in him he would abstain from polluting himself by any personal contact. To English people who have been in India, it might sound queer, for they can call instances of shaking hands with Hindu gentlemen. But I would tell them that it is a mere mockery meant for keeping up appearances. At heart a Hindu loaths an Englishman as well as he loaths a Muslim, and to him a bodily touch with a non-Hindu involves as much impurity as a direct contact with filth. This statement may not be considered as a hyperbole or a mere conjecture. I quote here Pandit Madan Mohan Malaviyya, the topmost leader of the orthodox Hindus, in support of what I have just stated. Pandit Sahib says that, "he washes off his hands with water after he has touched an Englishman." (Vide Sanatan Dharm Parchark, dated Oct. 18, 1922, p.2.) This conclusively proves that all orthodox Hindus, barring of course a few who have no religion, shake hands with non-Hindus, just as a make-believe, and as a cloak to hide their innermost feelings

while as a matter of fact they hate the very ceremony.

The second means to promote mutual intercourse is inter-dining. This practice tends greatly to the softening of one towards the other, and to the removal of differences and misunderstandings. But no Hindu would partake of the food touched by a Muslim, a Christian or any other non-Hindu. Those Hindus that join dinners given by Englishmen are either averse to their religion or else they are ignorant of its tenets, or if they do not belong to either of these two classes they simply deceive their English friends for at heart they execrate the whole thing. This aversion to inter-dining is so deep-rooted and so pronounced that men like Pt. Madan Mohan Malaviyya would not even drink water under a roof which shelters a non-Hindu. On one occasion during a conference held to please Mr. Gandhi and wherein it was desired to allay the intense tension that had come about between the Hindus and the Muslims owing to the campaign of *Shuddi* and to which I was also asked to depute members of my community, the Pundit Sahib, as I am told, set out thirsty all the time, but



would not touch water owing to the presence of Muslim members in the meeting.

It was only when he went to a separate room all to himself that he slaked his thirst. What can you expect of a people whose leaders are inspired by such inveterate hatred towards non-Hindus, and what would be the fate of the minorities who are thrown at the mercy of a majority consisting of such people. Again even he who has only a bare acquaintance with India knows well that no Hindu would ever think of buying eatables at a Muslim shop. To explain it away it is sometimes alleged that it is due to hygienic reasons, but this is quite untrue for it is a patent fact that even a poor Muslim is more particular than an average Hindu about sanitary and hygienic precautions. At a Hindu confectioner's, however dirty he might be, a Hindu gentleman would feel no scruple but would gladly associate with him and eat things offered by him. As for personal cleanliness the Hindu confectioner is perhaps the worst specimen of humanity and as to his cooking utensils and other culinary arrangements the less said the better. It has frequent-

ly been seen that the street dogs would be poking their noses into his pots and pans and he would not stir from his place and be content with shooin' and hissing, but let a Muslim but pass by or happen to be coming in that direction and he would begin shouting execrating cries to warn the unoffending Muslim passerby to remain at a respectable distance from his utensils. This horrible and degrading practice is kept up not from any religious motives, but as the Hindus themselves confess, with a view to hoard up wealth and to financially cripple the Muslims.

A well-known Hindu religious paper writes "Had there been no untouchability there would have been no kind of trade in the hands of the Hindus to-day. We affirm that what saved us over trade was this boycott." Again, "this movement has benefitted the Hindus as a nation to the greatest possible degree. For instance take the case of trade to-day. To-day the whole trade in eatables and other fine commodities is monopolised by the Hindus. (Musafar Agra Vol. VI. p. 22.)

This public statement by a religious paper leaves no doubt about it that the question of

untouchability is not at all a religious question. At the back of it lies the economic 'boycott' of the Muslims. All talk of religion is mere humbug. The sole idea is to hoodwink the Muslims by cloaking this economic 'boycott' under a religious garb. The Muslim who is taught to respect the religious sentiments of others however foolish or injurious they might be is simply told that it is religion and he is satisfied. The result of this cunning policy has been that Hindus have almost monopolised the trade in eatables all over India, including even the purely Muslim quarters. It is under the same pretence that the Hindu gets all the contracts for eatables at railway stations, on the plea that while a Hindu will not eat anything touched by a non-Hindu a Muslim will have no such scruples.

Assuming that on an average a man spends a rupee a year on sweet-meats, and this is a very low estimate, it means that the Muslims lose no less than 70 million rupees every year without the prospect of receiving back a pie. Can we under such circumstances advise trust in a people that has developed such worked-out schemes to boycott its sister community?

This state of things is not merely confined to eatables. It is rampant in every trade with slight modifications. As a general rule a Hindu would rarely buy things at a Muslim shop however cheap his charges might be. A little walk in any Indian bazar, morning or evening will bear this out. The Hindu psychology has of late been exhibiting even worse signs of communal hatred. A well known Hindu leader of Allahabad who is generally looked upon as a national leader and who owns a good number of residential quarters has laid it down as his principle not to let any of his houses to Muslim tenants. In 1918 I visited Bombay for reasons of health and rented a house at Bandra, a suburb of Bombay. I was accompanied by my mother who developed carbuncle. Under medical advice it was thought convenient to have a residence in the town itself. As owing to medical advice I had to live near the sea-shore so we searched for a house in the *Chaupatty*, but no suitable accommodation was available. It so happened, however, that a highly respectable gentleman who was a prime minister in a native state was vacating his quarters and he happened to be a Punjabi Hindu. The matter was taken up with him

and he agreed to sublet the house for the rest of the season, and the terms were settled and the date fixed for occupying. Later on, however, he refused to rent it and on being pressed to let us have it he said that a considerable number of Hindus in Bombay had the settled policy of not renting their houses to Muslims and it was this group that had made him go back on his word. They had warned him, he said, that he too would not be allowed to hire any house in that quarter in future if he held to his contract with us.

Of course instances can be recalled where Hindus have let out their property to the Muslims, but then such houses must have been built with that very purpose. But there is no denying the fact that in all the large towns the Hindus have set apart their own residential quarters, segregating the Muslims, exactly in the same way as the Indians in South Africa have been segregated. They decry the white settlers of Africa but copy them in India in the case of the Muslims.

This segregation is not confined merely to residential quarters. It goes further. The

Hindu has adopted the same policy in regard to his other property. A well organised effort is being made to evict Muslims of their landed as well as other kind of property. Just look at the deep-laid plans of the Hindu money-lender to get the Muslim property sequestered. The possession of property is only a secondary thing, the real aim is to weaken the Muslim and bring him under his thumb. Sometimes the money advanced is quite out of proportion to the property in question, the property being small and insignificant but as the idea is to dispossess the Muslim and then lord it over him in his own home the opportunity is not let go. The Hindus are the financial magnates who rule over the lives of their hapless Muslim victims. I know that no one would care to go into the intricate problems of how these loans originate and how they are augmented, but I would illustrate my point by recalling here the dying behest of the late Mr. Tilak, the famous Maharatta political leader, to Mr. Gandhi. Khawaja Hassan Nizami, a well known writer of Delhi, says that Mr. Warsi, who took an active part in the early Indian agitation under Mr. Tilak and sometimes acted as a volunteer to

watch at the house of the Maharatta leader, told him that when dying Mr. Tilak, in a message through a friend, asked Mr. Gandhi that like himself he should "see that all property in India was vested in Hindu hands. The question of government alone will remain to settle in that case, but that was easy of solution. The foremost question was the possession of property."

In the matter of government services also this segregation policy is in full swing. No effort is spared to deprive Muslims of their due rights. All departments are Hindu-ridden. The reason assigned for the paucity of Muslims in the services is want of suitable men among them. But the fact is that Muslim candidates are rejected on the made-up excuse of incompetence. It sometimes happens that a Muslim candidate applies for a post, but his application is torn to pieces and thrown into the waste-paper basket and he is merely told that there is no vacancy, while on the same day or the next one a Hindu candidate comes and meets with a ready response. A high Muslim official in the education department once related to me the case of a Muslim candidate who came to him in search of employment and whom he instructed to submit

an application through his office. The next day the candidate came to him and told him that the Hindu head clerk had rejected his application with the written remark that there was no vacancy. But on the same day or the next day the same clerk recommended to him (the Muslim officer) a Hindu applicant and apprised him of a post that had fallen vacant. When he was reminded of his rejection of the application of the Muslim candidate previously he looked back and confessed that there had been a mistake.

Besides the effort to keep out the Muslims from the services there is a concerted plan to oust those who have already got in. The Sangathan Movement (*i. e.* the movement for uniting the Hindus) began in 1921 and immediately after that regular actions were filed against a good many Muslim officials of the Punjab who were turned out of their jobs. At the bottom of all this there lay the hand of the Sangathan. If there be a Muslim official who protects the interests of the Muslims or who is loyal to the Government he is sure to suffer untold hardship at the hands of his Hindu officers and colleagues. If an independent Commission were set up to enquire into such cases a lot of irrefutable proof would become available



to support the fact that if any Muslim official tries to recruit Muslim candidates, even though these be quite disproportionate to their rights, a great hue and cry is raised against that Muslim official in the press as well as on the platform, and there is set in motion a huge flood of confidential complaints and reports against him. During the last few days three of the Ahmadies, who have been combating the Congress propaganda of Civil Disobedience, have become the target of Hindu complaints and a concerted plot is afoot to get them in trouble. A Canal Deputy Collector and an Asst. Engineer have both had to suffer at the hands of the Hindus. True that a formal departmental action was taken against them. But the fact speaks for itself that having put in something like fifteen years of meritorious service suddenly on their combatting the Congress Propaganda, they find themselves arraigned by a Hindu officer of superior rank but of pro-Congress tendencies, and declared incompetent. Why is it that two officials belonging to the same community and serving under the same officer fall under official displeasure at one and the same time, though they have been getting regular promotions upto now and their services were appreciated.

As there is a possibility of some people doubting this statement and saying that the Hindus, as a community, cannot have any such policy, I quote here Bhai Permanand, M.A., in support of what I have said. He is a recognised Hindu leader of all India fame. Speaking of those who are rendering service to the country in diverse ways he explains the viewpoints of those Hindus who are in Government service as follows : "To win the goodwill of their British officers and keep the jobs to themselves ; then with the help of the British officers to try to weaken the Muslims and strengthen the Hindu cause ; and as soon as they have consolidated their position to strive to win Swaraj" (vide Hindu Sangthan and Arya Samaj, page 180). These are the views of a person who towards the end of Lala Lajpat Rai's life had outstripped even that doughty champion of the Hindu Cause having become more popular with his community. The ostracism and the social isolation to which the Muslims are being exposed is no less rigorous. The Muslims do employ Hindus but the latter scrupulously avoid the former, and whenever they are forced to do it they do so under their own interest. Again the questions of cow-slaughter and music before the

mosques have been magnified into big communal issues solely owing to political reasons. The ancient Hindus used to sacrifice cows and eat beef so much so that it is written that "The host should not partake of food until he has treated his honoured guest to the sweet cow milk and its delicious beef" (vide Atharva Veda Kand 9 Sukat 3).

Again Pt. Amba Candra Dass, M.A., writes, "That the old Aryans were given to beef eating does not lack evidence, but the milk cattle were seldom killed" (vide Vedic India 2nd Edn. p. 97).

The rite of animal sacrifice was so prevalent among the Hindus that its suppression was regarded as one of the main reasons inspiring revolt against Budhistic domination. I quote here from Mahamahowpadhyai Pt. Har Parshad Shashtri who writes "The reason of Hindu revolt against the Maurya rule was that Asoka had forbidden animal sacrifice and the first thing that Pushyamitra, the rebel leader, did on coming to the throne was the celebration of Ushvamedha Yuga i. e. the rites of animal sacrifice" (vide Magdha ka Prachin Itihas by Pandit Ram Sharan

Opadhiai, B. A., pages 72,73). Is it not strange that during the days of the Buddhists, the stoppage of animal sacrifice was set up as an excuse for raising the standard of revolt, while at present the continuance of the same sacrifice is treated as a cause of waging war against the *sister community*. As a matter of fact this plan was devised towards the end of the Muslim rule in India to inflame the Hindu populace and by and by it has come to assume communal importance. Hindu ferocity and high-handedness in the matter of cow-slaughter has assumed such undue proportions that there is no province of India which has not witnessed cold-blooded murders and rapine under this excuse whereas the Muslims slaughter cows merely for their own food and the Hindus should have no cause of annoyance at it. What is still more strange is that the Hindu leaders do not as a rule condemn such unwarrantable blood spilling by the members of their community, rather they begin to justify such conduct by finding excuses in this or that happening. If an inventory be made of these riotings and disturbances during the last decade, it would be found that in 90% of these riots the Hindus were the aggressors. Another striking thing arising out of such an

enquiry will reveal the fact that in the 10% of cases where the Muslims would be found to be the aggressors, one would almost come across a unanimous condemnation of the same by the Muslim press and public, whereas in cases of Hindu aggression the Hindu leaders as well as the Hindu press would not feel the least compunction in uniting together to condemn the Muslims and exonerate the Hindus.

Now this Hindu attitude and true democracy which means that one has no right to interfere in the legitimate actions of another, are quite incompatible. Wherever the Hindus are in majority in the municipal boards general orders are passed to stop kine slaughtering. Even the Government has begun to put obstacles in that line. Wherever there is a military post or cantonment, there is a government arrangement for the supply of beef to the troops but Muslim need of beef as food is attributed to provocative tendency on the part of the latter. Though this state of affairs in the British territory is itself unbearable but the Hindu native states have even outstepped the last limit of wrong doing in this matter and one can guess from this what would be the condition of things in India if responsible

government is set up under the Hindu hegemony and what plight would the Muslims be reduced to. The State of Kashmir is a case in point. About ninety-five per cent of the population of Kashmir proper is Muslim, but seven years imprisonment is prescribed for him who slaughters or kills a cow. I don't blame the present ruler for this state of things. He is the son of a father (brother of the late Maharaja) who was very friendly towards Islam and who was very much attached to the first successors of the Holy Founder of our movement while he was employed there as a royal physician. It was owing to this friendship that the latter was ordered out of Kashmir by the late Maharaja. I therefore look up to the present Raja with love and respect and hope that God will enable him to rule as a generous and tolerant ruler without any trait of a bias or prejudice towards any of his subjects and that he would set a good example for other Indian rulers of the native states. But to return to the point. The other native states are no better in this respect. A high English official who acted as a resident in one of these states narrates his own experience saying that once certain Muslims of the state killed a cow for which they had to pay Rs. 100,000 as indemnity. The next day there

was a case of Infanticide and this was composed for Rs. 25. He says that when the matter came to his knowledge he rebuked the state authorities responsible for it.

A still greater hardship and tyranny has recently been devised *i. e.* some Hindu states have in a way forbidden the preaching of Islam. It has been laid down that no one can change his religion unless he gets a proper permit from a regular court where he has to present himself in person. The result is that a Muslim can easily be permitted to turn a Hindu while a Hindu will never get a permit for his conversion to Islam. In the case of a Hindu desiring to embrace Islam a long investigation is held and all those who have helped in imbuing the man with Muslim ideas are dragged into the court and somehow or other put to great inconvenience and embarrassment and the candidate himself has sometimes to suffer the rigours of imprisonment under false charges, so much so that he begins to doubt whether any God existed to watch the affairs of that part of the world. He then either tries to get away from the state or he gives up the idea of embracing Islam altogether.

To the civilised world even this wrong may be shocking enough, but I say that still worse outrages are being perpetrated here every day. Sometime ago the *Shuddhi* movement (Hindu movement for converting non-Hindus to Hinduism) was started in full force by the Hindus. In a native state adjoining that territory where the tide of *Shuddhi* was the strongest, a Police Superintendent, who should have been the guardian of peace and the protector of the rights of the people, openly forced the people of a village to abjure Islam. An old woman *Jamia* by name—I have given her name that the future generations may preserve her memory—alone refused to do so. She openly announced her intention of sticking to her own faith which she on no account and under no temptation would renounce. She was annoyed and tormented in diverse ways and subjected to a lot of suffering but the sixty year old lady stood adamant. In a great meeting convened by her people to consider the question of *Shuddhi* she stood up and boldly declared that she would prefer her children to be cut to pieces by the sword rather than renounce Islam and she exhorted the male members of her community to beware of the attitude



they were showing, in the matter of this forced *Shuddhi*, for said she, if the men did not rise to fight this wrong their women-folk would not suffer to be subjected to it. The result of this bold advice was that she was boycotted and forbidden to draw water at the public wells and was threatened to be turned out of her house which was the joint property of the family, and at the harvesting all labour was withheld from her. As soon as I was apprised of this state of affairs I sent a party consisting of a number of educated members of my community to do the harvesting for her, while to provide her shelter a house was built for her sake and preachers were stationed in her village to hearten those who still wavered and bring back by reconversion those who had recanted Islam. On seeing this the officials of the Native State referred above promulgated an order disallowing any resident of the British territory staying there for the night. Our Missionaries then pitched their camp in the neighbouring British territory from where they would cross into the State during the day time returning for the night to their camp. In the sultry heat of the torrid Indian sun, with untold hardships to bear, our men met this Hindu high-handedness, and the

political department of the Government of India despite our repeated complaints paid no attention to the matter, for the British policy is to treat the States as autonomous units, interfering as little as possible in their internal affairs. And by the way if that is the position of the Supreme Government with regard to the Native States how can we, under full-fledged self-government, expect the Constitutional Governor to interfere on behalf of the Muslims in the internal affairs of a Province? How can then we be satisfied with the proposed safeguards?

It would be a mistake to regard this as a freakish tendency on the part of a section of the Hindu people. The Hindu nation as a whole is infected with this anti-Muslim mania. I quote here a person of no less an eminence than Mr. Gandhi who in 1918 publicly declared to the effect "that one must not be under the misapprehension of regarding the Hindu people being insensible to the outrageous flouting of their susceptibilities on the continuance of cow slaughtering. I know they are nursing the wrong under the present state of things due to British domination, but there is not a single Hindu, throughout the length and breadth of India who

does not hope of blotting out one day the practice of cow-slaughter from the sacred soil of India or who would, quite against the spirit of Hinduism as I understand it, scruple to use even the sword against the Muslims and the Christians in order to forcibly stop that "practice." (The Vakil of Amritsar, dated March 6, 1918). Who can say after this that this prejudice and bias is only confined to a few ignorant Hindus who should not be minded at all?

#### **Future designs of Hindus against Minorities.**

After making it clear that the Hindus are boycotting and harrassing the Muslims in every walk of life and that the latter have been reduced to great straits owing to the machinations of this overshadowing majority in view of which it is impossible to be satisfied with the mere goodwill of the Hindu community as the sole safeguard for the Muslim minority I now proceed to deal with the future designs of the Hindus against the Muslims. For if it can be established that the majority is already planning to make the attainment of Swaraj a means of depriving the minority of its cherished institutions then it is obviously foolish to entertain ideas of the majority changing its viewpoint in the near future

Reward of Muslim loyalty towards the British. A famous Hindu lecturer Satya Dev by name says in one of his lectures. "I view the Muslim future with great apprehensions, unless they become nationalistic in their words and deeds. If the Indian Muslims remained immersed in their present religious fanaticism (that is if they did not give up their faith and become Hindus) their sole work in life would remain to perpetuate alien domination by their co-operating with it. The result would be that when freedom was secured the Indian people will turn against them *en masse* endangering their very existence. Their salvation therefore lies in their becoming nationalists. (Vide the Vakil of Amritsar, dated 9th Dec., 1925). The words need no comment. Free India would wreak vengeance upon the Muslims not only for their profession of Islam but for their loyalty to the present Government as well. Looked at in this light Lord Irwin and Mr. Benn in their recent declarations of Muslim loyalty have done the latter a great disservice. Their verdicts have sealed the Muslim fate and their pronouncements have signed their death warrants.

Under what conditions would Muslims be permitted to stay in India. The same speaker Mr. Satya Dev in the course of his address in a C. P. town proceeded as follows: "Let the Hindus unite and consolidate. The world of to-day believes that might is right. The Hindus being stronger and more numerous the Muslims will of themselves bend down their knees before them." Again "As soon as we have united ourselves our position would be impregnable. We can then offer the following terms to the Muslims: (1) The Quran to be discarded as a revealed word of God, (2) Muhammad (peace be upon him) to be no longer proclaimed as a prophet (3) all thoughts of Arabic etc. to be clean forgotten; (4) the study of Kabir and Tulsī to be taken up instead of Sadī and Rumi; (5) Muslim festivals to be discarded in favour of Hindu ones; (6) Rama and Krishna festivals to be celebrated, (7) Muslims to give up their Islamic names and choose Ram Din and Krishna Khan etc. instead; and (8) Arabic prayers to give place to Hindi *Shlokas*." For it is Sanskrit that is the mother tongue of India and not Arabic or Persian which should therefore be driven out of the country as soon as possible."

It may be urged that though Mr. Satya Dev may be a great Hindu he is not among the topmost leaders of the Hindu community, so I quote here a few of the leading Hindus in support of what Mr. Satya Dev has said. Dr. Moonji, President of the All-India Hindu Mahasabha and a delegate to the coming Round Table Conference says, "If the Hindus unite they can unaided bring the English and their Muslim satellites to their knees and win Swaraj. Mr. Jinnah's proposals (fourteen demands of the Muslims) breathe schismatic threats which the Hindus should ignore with contempt. They should give up once for all the idea that Swaraj is unattainable without Muslim aid." These words of Dr. Moonji made it clear that the Hindus are not prepared to accede to the Muslims their rightful demands. They are on the contrary quite prepared to deal with the English and the Muslims at the point of the sword, and do not care a bit to arrive at any understanding with the Muslims. Certainly this is not a happy augury of things.

Another Hindu leader Mr. Hardial, M.A., who is well known to the European and American public writes. "When England

accedes to our demand for Home Rule which is 75 per cent of complete independence it should be based upon an understanding between England and the Hindu community." Further on he continues, "The following shall be the Hindu programme: (1) A Hindu state to be based on Hindu institutions, such as Sanskrit and Hindi tongues, Hindu History, Hindu festivals, Hindu hero-worship, and the love of Hindu nation and country. Those of us who are inducing the half-caste Muslims to join the national movement do not understand the basic principle that national states are founded upon old national institutions which alone help to create unity. Again "When the time comes for the Swaraj to be established we shall announce our policy towards the Christians and the Muslims both. There would be no need then for any understanding. All that we shall do would be to frame our conditions and make a public declaration of it. Our manifesto shall simply lay down the duties and obligations of the Muslims and the Christians in the Hindu state and under what conditions they could be taken back into the Hindu fold." (vide *Milap*, a daily of Lahore, dated 25th May, 1928). Elsewhere he

says, "The Swaraj party should lay it down as a principle that every Indian child acquires national (*i. e.* Hindu) characteristics be he a Muslim or a Christian. If any group or community refuses to receive it, it should be legally compelled to do so and prevented from sowing a seed of discord or it should be banished to the sandy desert of Arabia where it might live on dates for it has no right to enjoy the mangoes, the bananas and the oranges of our country."

In another connection the same gentleman says, "I say the future of the Hindu people or of India or of the Punjab lies in these four ideals, namely (1) Hindu Sangthan, (2) Hindu Rule, (3) the conversion of Muslims and Christians to Hinduism, (4) the subjugation of Afghanistan and its conversion." Again, "If the Hindus want self-preservation they shall have to be up and doing and revive the memories of Maharaja Ranjit Singh and Sardar Hari Singh Nalva by setting about to conquer Afghanistan and the Frontier and carry out the conversion of all the hill-tribes.

If the Hindus remain heedless of this duty, then there is a sure danger of Muslim rule being



again set up in India" (vide the *Milap*, dated 23rd June, 1928).

At yet another place Mr. Hardial harangues his community as follows: "As long as the Punjab and India are not cleared of these foreign cults (Islam and Christianity) so long we shall not enjoy a reposeful sleep. A Hindu who does not make this his object and aim is not a true son of India but a degenerate. He is a dead corpse with no life and is an arrant fool. Every true Hindu should aim at extirpating Islam and Christianity." (The *Tej*, a Hindu daily of Delhi).

Mahasha Krishna, who is one of the greatest proprietors of the vernacular press and is reckoned among the most important members of the Arya Priti Nadhi Sabha, writes, "The time is not far off when Islam will for ever disappear from the sacred soil of India, and whoever directly or indirectly helps in the propagation or defence of it, be he a Gandhi or any other person of eminence, shall be looked upon as an enemy of India and Swaraj and no true Hindu shall have anything to do with him." Again "The first and foremost duty of the Hindus

is to wipe out Islam and consign it to the waters of the Ganges. Unless the Muslims stop preaching and propagating their religion in India there can be no peace between the two people. With those who want to supplant the Vedic Culture and the name of Krishna with the civilisation of Arid and Sandy Arabia and the name of Muhammad, the Hindus can make no peace (*The Arya Veer*).

Prof. Ram Dev, one of the great Arya Samaj leaders and once principal of their central institution, the Gurukul of Hardwar, and who afterwards joined politics declares, "that over every mosque in India the Vedic flag shall be unfurled" (vide the *Guru Ghantal*, dated 10 Jan. 1927) Speaking on the occasion of the Anniversary of the Arya Samaj Mr. Ram Dev said, "The time is coming when all mosques shall be turned into Hindu temples where in *Hawan* (a form of Hindu worship) will be performed. I often think of what we shall do with the Great Mosque at Delhi.

Not only the Aryas of India but of the whole world will assemble there in world-wide conferences." Dr. Gokal Chand Narang, M.L.C.,

President of the Lahore High Court Bar Association and a member of the Punjab Committee that worked with the Simon Commission says, "I do not feel the least shame in declaring that if despite your efforts to make him desist from such a course a Muslim is bent upon preaching to and converting a Hindu than it is your clear duty (to kill or) be killed there." (The *Partap*, a Hindu daily of Lahore).

These are the views of the Hindus of British India. As for those residing in the native states I must content myself by quoting from Dr. Lawrence. In his book entitled 'India which we saved' the Doctor writes,\* "Lord Curzon had invited me to a dinner, His Highness General Sir Patrap Singh Bahadur, ruler of the Jodhpur state, was a friend of mine. We sat together talking for a good deal of time during the course of which His Highness said, "My aim and object is to annihilate the Muslims in India."

I was surprised at this remark and by way of protest suggested that I had a number of

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\* The book being not available locally, I have here given my own translation of an Urdu version of it—Translator.

Muslim friends who were good men; at which the Maharaja said that he too liked them but that he would prefer to see them all dead."

From the above quotations it is apparent that the Hindus of British India as well as those of the native states are (1) inspired with the venom of racial prejudice, (2) have all openly declared their intent to wipe out the Muslims when any opportunity offers itself, (3) they want to establish a purely Hindu Raj in India, (4) they don't want to arrive at any understanding with the Muslims or the Christians, but would prefer to dictate their own terms which would mainly pertain to the matter as to how they can be received into the fold of Hinduism, (5) they would abolish Muslim classics and Muslim vernaculars, (6) they would declare minority festivals unlawful, (7) they would change their ritual pertaining to worship, (8) they would stop cow slaughtering at the point of sword, (9) they would prohibit propagation of alien faiths, (10) they would do everything to prevent a Hindu from changing his faith, and if that can not be stopped they will kill or be killed, (11) the N. W. F. P. and Afghani-  
stan will both be subjugated and Hinduism

forced upon them, (12) Muslim mosques would be converted into Hindu temples (13) Islamic names will be changed into those of Hindi, (14) those who will be unwilling to subscribe to these terms shall be exiled and (15) any person, he be Mr. Gandhi, who will countenance or urge kind treatment towards the Muslims shall be subjected to a rigorous social boycott.

In the face of these Hindu designs against minorities in general and Muslims in particular, and in face of their present treatment of the Muslims can any sane person say that the minorities should not make any demands for adequate safeguards, or that such demands are against the principles of democracy? Is there an instance of any minority in the world beset with so many dangers making such moderate demands for safeguarding their rights as the Muslims of India have done?

I must however make my position clear in one respect. I do not for a moment mean to suggest that all Hindus without any exception are actuated with the sort of malice referred to above. There must be individuals among them who scorn these views as much as do the

intended victims of these designs. Some Hindu gentlemen have actually given expression to their abhorrance. But unfortunately this section forms only a very small minority whose opinions do not count in the larger Hindu circles. It is our sincere prayer that God may soon bring the day when the Hindus may as a nation be purged of these venomous thoughts which make every non-Hindu appear to them as a criminal deserving of capital punishment. But till that day comes adequate safeguards for the right of minorities are an absolute necessity.

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## CHAPTER VI

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### Principles underlying Safeguards

The Simon Commission has admitted that differences exist between the majority and minority communities, but being only partially cognisant of their depth and ramifications they have not been able to devise a true remedy for this state of affairs. They have briefly dealt with the Hindu-Muslim differences relating to the question of cow-slaughter and music before the mosques but they have not been able to gauge that it is not a mere question of cow-slaughter or music but that there underlies the all-pervading principle of social and economic boycott which the Hindus have practised for so long against the Muslims. The Commission ought to have gone deep to the root-cause of this trouble. It was their duty to have devised means for the protection of the various communities against the harmful effects of these differences. But they could not do so unless they had gone to the bottom of the thing and that they have not done. They have simply taken the questions relating to the cow and music, but have given no thought to the matter that the cow question is only a part of the deep-laid plots of the Hindu Sanghathan. It was given the present form towards the end of

Muslim rule in India in order to rouse and consolidate the Hindu masses. It is not at all a question of religion or else there would never be found beef-eating Hindus. Even now there exist certain Hindu tribes who eat beef without any compunction, though the present political agitation is naturally tending to reduce their numbers. The Commissioners ought to have probed to the very root of this organised boycott which is working in every branch of life *i. e.* trade industry economics, services and social polity. It is rampant everywhere and there is no department of life where Muslim interests are not hard hit under the cloak of religion, sanitation and other pretences, the object being the attainment of political ascendancy. Take for instance this cow question. Had it been merely confined to the ignorant and illiterate people we could have attributed the matter to their excessive and overdone religious reverence. But why is it that even educated people of light and learning get equally inflamed over it, though in private life a good many of them enjoy beef-steaks with relish. The present political movement is wholly in the hands of those Indians who have been educated in the West, and the people of the West need not be reminded that while there at least 90 per cent of these Hindus indulged in beef-eating. In 1924 when I visited England one of my secretaries



asked the waiter at one table not to put pork or bacon or anything consisting of swine's flesh before us as it was forbidden in our religion. The waiter being astonished it was explained to him that we were Muslims and as such we regarded it unclean. At that time my secretary had a Hindu table-companion who used to talk with him over religious questions. In his solicitude for the religious susceptibilities of his table companion my secretary asked the waiter not to put beef or anything made thereof before that gentleman as he was a Hindu. The said Hindu gentleman kept his peace for the time being but he could not stand this deprivation for more than a day or two, and he therefore subsequently asked my secretary not to be over zealous pertaining to his (the Hindu's) food affairs, as he could well choose what was good for himself, and after this, he exhibited no scruple, and began to freely partake of what was offered to him. Is it not strange that when such people return home from the West they are the loudest in their outcry, against the beef-eating propensities of the Muslims. I admit human failing, but it is a strange frailty that one does a thing oneself but when the same thing is done by someone else one is so inflamed over it as to be prepared to shed human blood.

The Arya Samaj boasts of possessing monotheistic faith, yet the Arya is always in the front of this cow

agitation, and when his folly is exposed to him he at once falls back upon the economic side of the matter. It is a strange thing, however, that whereas in the Punjab a vast majority of the land-owners are Muslims, the Hindus being mainly confined to the urban areas and therefore the least affected by the difficulties of the farmers, the latter should raise such a hue and cry over the economic side of the matter.

But what is still more strange is this that whereas the killing of a cow should affect the economies of India so deeply the killing of men should not affect it at all. There have been hundreds of murders and thousands of wounded casualties over the slaughtering of kine in India but no Hindu seems to have ever given any thought to the economic side of this matter. The truth is that as I have stated above the cow question is only a tool meant to unite together the diverse elements of the Hindu Society. That is why even the monotheistic as well as the beef-eating Hindus all join hands in this matter against the Muslims. Nay these classes even outdo the orthodox masses in this matter for they are the ring leaders. If the Commission had looked at the problem from this point of view and gone deep into the matter it would never have cursorily passed over it and glossed over the safeguards suggested by the Muslims to protect themselves against the dangerous results of this attitude of

the Hindus towards them. So far as I have gone over this majority and minority question I think that in finding a solution for it we ought to bear in mind the requisites of a good government, in my opinion these requisites are (1) to prevent people from interfering with the rights and liberties of individuals and communities (2) to protect individuals as well as classes against the wrongs of outside people and conversely to prevent these from doing wrong to them (3) to develop the resources of the country and devise means for its general progress (4) to impose direct or indirect taxation that falls equitably on all alike to carry on the work of government and (5) to arrange that all violation of law whether against Government or against communities or individuals is fairly and equitably adjudged. In other words we can say that the end of Government is (a) to enact laws for the common good and to uphold individual liberty, (b) to enforce the laws thus made and (c) in case of violation of the law to fix the measure of the responsibility of the violator and punish him accordingly. To put it more technically the aim and end of Government is the establishment of an equitable legislature, executive and judiciary. Outside of this there is no purpose of Government, neither can there be any, for a real government is that which is set up with the consent of the individuals inhabiting a country, and there is no individual in the world who

would like to see his own rights jeopardised by the enactment of unjust laws, or the wrong enforcement of them or the unequitable administration of justice. In framing a constitution therefore the framers should see that all individuals and communities equally benefit by it and that the rights of none are thereby jeopardised in any way.

If the principle I have enunciated is true, and there can be no doubt that it is, then constitutions would differ according to the requirements of the different countries, for it is necessary to bear in mind the specific conditions of the people. Suppose for instance that there is danger of a class of people suffering in the matter of their language then there shall have to be made provision against it in the constitution. If the religion of a class of persons is in danger measures will be adopted to safeguard it. Or suppose in some newly established organization some individuals are included not in their personal capacity but as members of a certain community and they entertain fears as regard their communal and internal organisation then it would be the duty of the framers of the constitution to provide safeguards against those apprehensions. In short as democratic form of government is set up with the consent of the individuals or communities, it is only too evident

that all such safeguards will be provided as would remove all reasonable doubt or apprehension on the part of individuals or minorities concerned so that they may wholeheartedly put themselves into the work of government which can be successful only with the cheerful consent and goodwill of all.

Now with the above principle in view we have to find out whether in the establishment of a responsible government the constitution of India needs any special safeguards, and if so, what, of course it is known to all that there is a good number of minorities, the most important of which is the Muslim Community. Next to them in regard to numbers are the Christians or racially the English. I have already stated that the differences between the majority and the minority communities are so fundamental that they cannot be ignored. Neither are most of the minorities willing to forego them. Hence if democracy is to be set up in India on sure foundations safeguards with regard to the rights of the individuals and communities are quite necessary. As to what are the things that need special protection and how far this protection is necessary the following basic points should be borne in mind:—

(1) Whether individual or communal fears are genuine and well founded or merely imaginary. (2) Whe-

ther it is the majority or minority that is responsible for this state of things. (3) Whether the matters about which apprehension is felt are essential for individual or communal advancement. (4) Whether they are such as can not be sacrificed for the sake of the bigger issues. (5) Whether these safeguards do not stand in the way of good government. (6) Whether they trespass on the rights of the majority or any other community. These are the six principles which must be borne in mind in deciding the question relating to safeguards, and I now take up the question of the minorities in that light.

The first thing to consider is whether individual or communal fears are genuine and well-founded or whether they are merely based upon suspicion and mistrust. The solution of this point is necessary so that if the fears are imaginary steps may be taken to reassure the individuals or communities concerned by removing those suspicions for that would settle the matter once for all. But if despite all efforts these suspicions cannot be removed then with a view to the imaginary character of the fears only light and nominal safeguards would be required to reassure those concerned, and in such a case the constitution would not be made complicated by including unnecessary provisions. (I am speaking here with a view to the fact that there will be a third party who will act as an

arbitrator or counsellor in deciding the fate of India). If the fears are only artificial and put up as mere pretence they can be ignored. But if they really exist then even if they are imaginary it would be necessary to see that some sort of provision is made against them. If however the fears are real and well founded then the greatest precaution would be required to provide all the necessary safeguards in the constitution for the jeopardising of minority rights as much opposed to real democracy as the suffering of majority interests.

I have already dealt in some detail with the present attitude and the future designs of the Hindus and I have proved that the fears entertained by the Muslims, the Christians and the British. (I include Anglo-Indian in the term British) are quite genuine and well founded. Hence special protective measures are necessary.

I may add here that a good many of the Indian Christians demand no safeguards for themselves, though in my opinion their position too is not safe. But as they are not in favour of any special protective measures it would be unwise to force any safeguards upon them. With regard to the Muslims and the Britishers however effective safeguards are an absolute necessity.

Now there is only minority left which I have not mentioned so far. This minority has in reality no fears nor are they exposed to any dangers, yet in imitation of the Muslim claims as well as to secure more rights than they are entitled to and to add to undue weightage to the Hindu cause they have set up a fictitious claim for special protection. This is the Sikh community of the Punjab who are socially a part of the Hindu people. My claim that the Sikhs are a part of the Hindus is amply borne out by the fact that there is no untouchability between these two people. They inter-mix and inter-dine as freely as do the different members of the Hindu community with one another and cases of inter-marriage are also not wanting. Some of the Sikhs also celebrate and join in Hindu festivals and make pilgrimage to Hindu places of worship. In short socially and practically they are a part and parcel of the Hindus, though from the viewpoint of religious beliefs they are much more akin to the Muslims. Another practical proof of the Sikhs, being a part of the Hindu nation is that the Hindu boycott does not extend to them. In the matter of services under Hindu control a Sikh is as welcome as any Hindu candidate whereas a Muslim would be refused. In the Railway, Canal, and Public Works Departments where Muslim contractors are quite a reality owing to the vigorous boycott practiced by the Hindu engineers, the Sikh contractors are as much in evidence



as the Hindus as a result of which they have grown enormously rich.

In short the Hindu social and economic boycott of the Muslims does not extend to the Sikhs whose claim to be politically recognised as a minority community separate from the Hindus does not therefore hold good. Politically, socially and economically the interests of the Sikhs completely coincide with those of the Hindus.

Moreover even if the Sikhs be politically recognised as a minority they cannot prove that in any department of life they have been unfairly dealt with. They are already enjoying more than their due rights. They constitute 14 per cent of the Punjab population, but they have actually been given 20 per cent representation. Their so-called apprehensions are therefore not borne on by facts. If however they can establish that their rights are in jeopardy as those of the Muslims or any other community, they would of course be entitled like others to similar safeguards which none can refuse them.

The second principle to observe in this connection is to see who is responsible for this state of things. An investigation in that direction is necessary so that the minorities may not be inclined to wilfully

provoke the majority in order to falsely represent themselves as the aggrieved party and hence deserving of special protection. If this false representation and wilful fraud be allowed to go uninvestigated the result will be that national spirit will never be fostered, for self-seekers would always be setting one people against another to ruin the peace of the country, as was the case in Turkey. Some of the interested European powers would first incite the various Christian minorities inhabiting Turkey into rebellion, and then as soon as the Turkish Government came down upon them, the same powers would intervene with the ready-made slogan that Christian persecution could not be allowed, and that some sort of safeguards were imperative. These so-called safeguards and protective measures gradually assumed the form of full autonomy and finally complete independence. Though I am writing here in favour of the Muslim minority yet I do not like to see that state of things in India *i.e.* that any minority, be it that of the Muslims, should wilfully provoke the majority and then make a show of false grievances in order to secure special rights.

Now I want to tell that the fears of the Indian minorities are not of their own making but that their responsibility solely rests upon the majority community. Take for instance the question of Govern-

ment services. There is not even the remotest possibility of Muslims inflaming the Hindu passions there. Or again in the case of educational institutions where no effort is spared to keep the Muslims backward. In the courts Muslim rights are not often openly flouted. One would even come across judgments where in one case the litigant happened to be a Hindu and in another a Muslim, and the same judge has decided differently, giving different interpretations to the same law. Take again the case of untouchability and boycott. For seven hundred years the Muslims have been eating things prepared or touched by the Hindus, and have been their regular customers, yet there has been no relaxing in the boycott. Even beef eating which is made so much of in these days cannot be regarded as provoking for the slaughtering of kine or eating beef is a personal affair of the Muslims which the Hindus have nothing to do with. The Muslims would surely be guilty if they were to forcibly slaughter Hindu kine, or force Hindus to eat beef. But they do nothing of the sort. They only kill their own kine to eat beef themselves. Therefore to create disturbances over the cow question is to interfere in the personal rights and liberty of the Muslims which is the duty of every democracy to protect. If the Muslims who regard pork as an unclean food or who regard it as a sin to receive or pay interest were to fall

upon the pork-eaters or pull down banks where interest transactions are carried on, no body would find any justification for these acts. But the Hindus openly and in clear defiance of the law perpetrate these atrocities and then shift the responsibility on to the Muslim shoulders. Again Islam and its holy founder are being publicly villified and it is being designed to strike out all Islamic culture and stop all preaching and propagation of Islam and to set up a purely Hindu Raj and expel the Muslims from the country. Clearly the Muslims cannot be held responsible for this sad state of affairs. In short the minority grievances are real and well founded and deserve full redress. Considered even as a matter of principle one is justified in holding the majority community responsible for it. The Simon Report also ascribes the communal tension of the communal riotings of India to political motives. It says, "The true cause as it seems to us is the struggle for political power and for the opportunities which political power confers" (Vol. I. p. 30). That is in principle the true analysis of the present state of things. But it is obvious that if any one is to gain by these riots and disturbances, it is the majority community who is aiming at sovereign domination for which it is necessary to fully break the minority resistance in order to hold undisputed and undisturbed sway.

The third principle in the settlement of this safeguard problem is whether safeguards are essential for individual or communal advancement for the creating of useless safeguards is tantamount to creating undesirable complexity in the constitution which should be avoided as far as possible. In such a case it would be our duty to impress upon the minority concerned the uselessness of insisting upon safeguards in petty affairs in which a change means neither any special disadvantage to the minority nor any particular good to the majority. The minority should therefore in such cases desist from falling a prey to unwarrantable suspicions and misgivings and even if the majority resorts to a policy of repression in these matters the minority should, keeping in view the general good of the country, stick to its course and make all efforts to improve the political atmosphere of the country.

I now put forth the Muslim demands for safeguards to enable my readers to judge for themselves whether they are essential for their individual and communal advancement. They are :—

1. The future Government of India should be Federal and not Unitary, that is the Central Government should have its powers delegated to it by the provinces, and not that the provinces should be delegated power to by the Central Government.

and barring only those matters that pertain to India as a whole and in the Central Government which the provinces would delegate power to power should vest in the provinces.

2. The North-West Frontier Province and Baluchistan should be given reforms like other autonomous provinces, while Sindh should be created into a separate province with constitution like that of the other provinces.

3. Every community should enjoy proportional representation in the legislative bodies of the country, exception being made only where a community is very weakly represented and for the proper representation of all its interests it may appear that the granting of some extra seats is essential, provided always that this concession does not reduce any majority to a minority or in any way impair the effectiveness thereof.

4. Muslim representation in the Central Government should be such as may be able to resist any attempt by the majority community to alter the organic constitution of the country against their will.

5. Communal and separate electorates should continue until the time when the minorities, real or practical, have come to stand on their own legs.

6. Practical of one's religion, and propagation, thereof as well as conversion to it should not be subjected to any limitations and restrictions. Nor any discriminatory law or laws affecting individuals or communities in their social, cultural, linguistic or economic liberty be passed. Nor any laws be made with a view to promote the special interests of certain individuals or communities to the detriment of general or other particular interests.

7. The Government should have no power to undertake the passing of a law, bill or regulation interfering in the personal law of any class and community until and unless a majority of its own representatives favour it, provided also that the proposed change had been put by these representations before their constituencies as an item of public programme to be advanced and looked after by them if they are returned to the legislature.

8. That the minorities would be given their due share in the services.

9. That the constitution both of the central and provincial governments should be of the rigid type so that it may not be altered according to the sweet will of the majority against the consent of the provinces or the minorities.

10. That provincial boundaries must in future never be altered without the consent of the provinces concerned.

These are the ten demands which have been placed by the Muslims before the majority and the British in various forms and as they include the interest of the other minorities also, I can safely say that with slight alterations they represent the demands of the other minorities as well. Most of these safeguards were also insisted upon by an All-India gathering of the Europeans in Calcutta very recently.

A cursory glance over these demands will convince the reader that all of them are quite essential for the individual and communal well-being and advancement of the minorities as well as the well-being of India as a whole. Perhaps some people would demur to the inclusion of religion or social affairs in the list of these demands for they may not look upon these things as necessary for progress and advancement from the political point of view or they may even consider religion as a clog in the wheel of progress, but considered from the viewpoint of at least the Muslims they are most essential. Anyhow if their inclusion in the present list is objected to they will secure protection under the fourth principle described below.



The fourth principle as I have said is to see whether the things for which special protection is demanded are not such as may be sacrificed for the sake of the general good of the country. It is necessary to keep in view this principle, for where there are things which may be sacrificed there are others which, however unnecessary, they may appear in the eyes of other people, the community concerned regards to be most essential and to be such as can in no case be sacrificed. Religion and social matters come under this head for though to others they may appear to be unimportant they may be of vital importance to the people to whom they pertain and who may look upon them as more essential than even their material interests; and such a community will never accept any constitution which tolerates interference with their religious or social affairs. If therefore any community apprehends danger on that score it may insist upon the inclusion of suitable safeguards in the constitution with regard to the Indian minorities. Such safeguards are all the more essential as the majority community has openly declared its intention of interfering with the practice and propagation of the religion of minorities as well as with the matters pertaining to conversion as is already being done in some of the native Hindu states. These states and a good many municipalities in British territory have made regula-

tions against cow sacrifice and threats are being held out for the future. It is all on the cards that the majority will also not hesitate to frame obnoxious rules and regulations affecting matters like marriage or inheritance. Safeguards are therefore an absolute necessity.

The fifth principle to observe is to see whether safeguards demanded by the minorities are not such as may make the working of government impossible or may tend to destroy the whole fabric of administration. This is necessary so that the minorities may not put forward demands calculated to wreck the governments. In such a case either the work of framing the constitution will be given up altogether or the minorities will be forced not to make such excessive demands. Obviously however the demands of the Indian minorities as formulated above do not fall under that head but of that I shall speak in the next chapter.

The sixth principle is that minority demands should not be such as may deprive the majority or any other minority of its lawful rights. The importance of this principle is apparent for if it is necessary to safeguard the interests of a minority it is equally necessary to safeguard the rights of the majority or of one minority as against those of the other. But even a cursory glance over the demands of the

Muslims would show that none of them is calculated to adversely effect the just interests of the majority or of any other minority. They are on the other hand meant not only to safeguard the rights of all the minorities but to promote the general interests of the country as well.

## CHAPTER VII.

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### **The Minority Demands are not Unconstitutional.**

Now I proceed to show that the minority demands are not unconstitutional, and hence cannot be dispensed with. On the other hand it is necessary to incorporate them in the principles governing the framing of the constitution. I do not want to enter here into the details of the question for that will be needed when we are formulating plans to give them a concrete shape, or when their uses or abuses are under discussion. What I want to offer here is the fact that every demand put forth by the Indian minorities has its counter-part or parallel in the other constitutions of the world. We cannot therefore call them unconstitutional. Personally I am not in favour of the principle that every innovation in politics is injurious and hence unacceptable. We may successfully adopt a plan unconceived before. But as people are in the habit of looking for parallels or precedents rather than looking to the reasonableness or otherwise of the plan itself I shall try to confine myself to the existing constitutions of the world and prove that even if looked at in that light the demands of the Indian minorities cannot be adjudged to be unreasonable.

The first demand is for a Federal constitution. Suffice it to say that all the newly set up governments or organisations are set up on this plan.

The second relates to the conferment on N. W. F. P. and Baluchistan of the same rights as are conferred upon other provinces. This does not at all conflict with the interests of the country or the Government because there is no constitutional government in the world in which one part enjoys less rights than others. The second part of the same demand requires the separation of Sindh from Bombay into a province by itself. This too cannot obviously in any way conflict with the good Government of the Country. The addition of a new province cannot lead to the disruption of a country neither is it opposed to any principle of constitution.

The third demand relates to the proportional representation of the different communities. This demand also is not only fair and equitable but in no way does it weaken the Government for the representative system of government is based upon that very principle. Every day new electoral rules are being framed and these all aim at the equal and equitable representation of all interests in a country. As a matter of fact the principle of proportional representation was devised with that very object in view, and

it is now so well used that there are a dozen of different forms which are already in operation and according to the calculation of an expert hundreds of different forms have been theoretically devised.

The second part of this demand requires that where the effectiveness of the majority is not adversely affected by the representation of a weak minority over and above its due proportion it might be accorded to such a minority in this connection. I may mention that in Zecho-Slovakia both in its council and senate the Ruthenians have been conceded more than their due proportional representation.

The fourth demand deals with the majority representation in the Central Legislature. It was said that in the Central Legislature the minorities should be represented in such a way that no change in the constitution could be affected against their will. This again is an admitted principle and rules and regulations have been made in various governments to give effect to it. For instance in the constitutions of all the European states set up after the Great War the majorities have been withheld the rights to tamper with the safeguards provided for the minority interests. These safeguards have either been given the shape of a Covenant or incorporated in an organic constitution irrevocable by the majority. The underlying principle however is the same in all

whatever the difference in form given in various countries.

The fifth demand is that so long as a real or practical minority (by which *i. e.* the latter term I mean the majority which has been under the political conditions of a country practically turned into a minority and about which I will discuss at some length when I proceed to study the recommendations of the Commission in detail) does not come to stand on its own legs the system of separate electorates should be continued. This demand, too, does not in any way affect the competency of government, and a precedent for it is to be met with in some of the European constitutions. For example, until recently, separate electorates existed in Zecho-Slovakia in the case of the Ruthenians. (The Protection of Minorities, by L. B. Mayor, p. 118.)

The sixth demand is that provision should be made in the constitution for complete freedom in all matters pertaining to the practice of religion, propagation of religion, and religious conversions, and that it should be laid down that no restrictions will be imposed on the minorities in social, fiscal, and linguistic matters. I need not dilate on this point, for these are matters which are really comprehended by the term Democracy. Zecho-Slovakia has however incorporated these safeguards expressly in her constitution. Similarly,

Poland, according to Articles 9 and 10 of its treaty, has not only undertaken to grant full liberty to the Jews in speaking and writing their own language, but has also undertaken to give them grant-in-aid out of public funds for the promotion and protection of their language and literature, and has further authorised the accredited Jewish committees to spend this sum as they think proper. Again in Article 11 of the said treaty the State has extended its protection to the Jewish Sabbath, and has in addition promised to provide kosher meat to the Jewish soldiers.

In Yugo-Slavia there is the question of the protection of the Muslim minority. The government of that country has therefore undertaken to protect the Muslim mosques and the property set apart as religious endowments as well as to impose no restrictions on the establishment of the Muslim religious and charitable societies and institutions.

Roumania, too, has in Article 11 of its treaty promised to the Saxons and the Zechs, complete freedom in religious and academic matters.

In short, it is a well admitted fact that no government should have the right to interfere in matters relating to the social life of the people, their religion and the propagation of religion, and that this and other similar safeguards form parts of the constitution



in several countries, while in all others they are observed as a matter of course. There is no reason therefore, why such safeguards should not be included in the future constitution of India where the conditions of the people justify them much more strongly than do in the case of any other country of the world.

In the seventh place comes the question of the personal law of a people. The need for the protection of this also is universally admitted. Yugo-Slavia, in Article 10 of its treaty concedes that—

“The Serb-Croat Slovene State agrees to grant to the Mussalmans in the matter of family laws and personal status, provisions suitable for regulating these matters in accordance with Mussalman usage.”

The eighth demand relates to a due share in the public services being given to each community. Though this matter does not appear to be expressly provided for in the constitution of any country, yet we find that in its proposed treaty with the Jews, the Polish Government promised to give the former a share in the public services of the country in proportion to their numerical strength, and although political conditions in Poland subsequently prevented the consummation of this treaty it can serve at least to prove that even outside India the need for securing the rights of a

community in regard to public services has been admitted.

The ninth demand is that no change in the Indian constitution be made without the consent of the minorities as well as that of the provincial governments. This also has been admitted to be a sound principle, and in regard to provinces it is in application in the United States of America, while in reference to minorities, it is in force in many European countries, where it has been *constituted into an international agreement* in which so far as minority rights are concerned no alteration can be made without the approval of the League of Nations.

The tenth demand is to the effect that no territorial changes should be made in any of the provinces except with the consent of the province or provinces concerned. This principle really constitutes a part of Federal law and is in force in the U. S. A. etc.

In short all the different demands of the Indian minorities are not only just and reasonable but are also supported by parallels in the various European constitutions.

## CHAPTER VIII.

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### Safeguards recommended by the Simon Commission.

As I have already stated the members of the Simon Commission have admitted the necessity of safeguarding the rights of the minorities. They say "Until the spirit of tolerance is more wide-spread in India and until there is evidence that minorities are prepared to trust to the sense of justice of the majority, we feel that there is indeed need for safeguards." (Vol. II, p. 23.)

The remedy which the Commissioners propose in this connection is that special powers should be vested in the Governor-General and in the provincial governors which they may exercise whenever the occasion demands. They write "We consider that the only practical means of protecting the weaker or less numerous elements in the population is by the retention of an impartial power residing in the Governor-General and the governors of provinces, to be exercised for this purpose" (Vol. II, p. 23).

Similarly under the heading 'Central Legislature,' they observe "The only practical means of providing for it is by the retention of an impartial power residing in the Governor-General and the governors of provinces for the purpose." (Vol. II, p. 130.)

So far as the European minority in India is concerned, the above safeguards prove of some efficiency though I doubt even that, but as regards the other minorities, it is absolutely certain that the method proposed will not afford the least measure of protection to them. I am sure within a few years even the Europeans will begin to complain of the inefficiency of the safeguards in question. The Commissioners seem to have overlooked the fact that the matters regarding which safeguards are now needed are the ones which have required similar safeguards since the past, yet the representatives of Great Britain be they governors or others, have failed to afford any protection to the minorities. For instance the Muslims have had a standing complaint that they were being deprived of their due share in Government services, yet despite all the powers which the

Government possessed, and at present the Government possesses immense powers, they have failed to redress this grievance. Several years ago the Government promised to specially look after the rights of the Muslims with regard to the railway service but the result has been that whereas in 1926 the percentage of the Muslims recruited to this service was 8 in 1229, it was only 2 in the District Boards, the system of nomination was partially retained with a view to protect the rights of the minorities, but if the Government ever care to investigate into the matter, they would be painfully surprised to find that not the least thought has been given to the purpose underlying the system ; on the contrary most of the Government officials, whether English or Indian, exercise the right of nomination, as a means of rewarding their friends and acquaintances. I cannot say that the same practice obtains in regard to the nomination to councils, but this much I can affirm that here too little care is taken to maintain the due proportion of representation between the various communities. Often the nominations are made in such a way, that communities which are already represented in excess of their due

share, present themselves again for nominations and succeed in obtaining still more seats in the councils. Again the Government always discourages and even tries to prevent cow-slaughter and is often loath to sanction the opening of a new slaughter-house, whereas food is indispensable to man, and there is no reason why the members of a community should be prevented from a legitimate article of food, when out of regard for the feelings of others they are prepared to slaughter their animals in secluded enclosures.

In the matter of language, in many provinces Hindi is replacing Urdu and the Government looks on in indifference. In the matter of rights it may be mentioned that in a certain College in the Punjab a Muslim Surgeon, who was a graduate of a British University, was given the post of Assistant Professorship on the clear understanding that the Professor's chair would be given to him as soon as it fell vacant. When, however, the said vacancy occurred his claims were passed over, and a Hindu Assistant Physician in the College was appointed Professor over his head, and despite

the representation of the Principal of the College they wanted a Surgeon for that post and not a Physician, the non-Muslim Minister in charge of the Department refused to change his decision. Again in spite of the fact that the Muslims are in a clear majority in the Punjab the percentage of Muslim students eligible for admission to Government institutions has been fixed as forty per cent. Most of the new high salaried posts in the Reduction Department have been given to the Hindus. The Muslims are also receiving less grant-in-aid for their schools than due right. Further, while the Hindus and Christians are getting all their religious holidays in most of the offices, the Muslims are given no leave to offer their prayers on Fridays which is their Sabbath and this despite the fact that the Government has ordered that the leave should be given to them. In certain offices where such leave is given the Muslims are made to compensate for it by sitting over time. On the contrary we find that in Europe wherever the Jewish minority is in sufficiently large numbers, they get their Sabbath as an off day. The Muslims, here, were willing to be satisfied with an interval of only two hours on Fridays, but despite their

being 55 per cent. in the Province, no arrangements have been made to accommodate them in the matter. All these things are happening before the very eyes of the governors, but they have done little to remove these grievances. The omission is not to be ascribed to any dishonesty on their part, for most of them are men of unimpeachable character who in their personal capacity have won our hearts, but they are practically powerless in the matter for they are besieged by Hindu colleagues and subordinates and it is not in the nature of man to find fault with his co-workers in such matters.

The above is with regard to treatment. I will now advert to the law. To protect the interests of the agricultural classes of the Punjab, there was enacted some time ago a law known as the Land Alienation Act which did something towards mitigating the Zamindar, by affording him some protection against the onslaught of the Hindu money-lender. Recently however some cases have been decided by the Lahore High Court which have practically and to a great extent nullified the good effect of this



law and have rendered it almost inefficacious. The Zamindar Community thereupon agitated in the matter and pressed the Government to do something for them but the latter for reasons of policy could do nothing.

The zamindars themselves introduced a bill in the Council but it was thrown out by the Hindus with the help of the official bloc, so that the lot of the agricultural classes continues to be as hard as ever. Not infrequently, the heavy rates of interest charged by the Hindu money-lenders reach as high a figure as 100 per cent, and in realizing this ruinous interest they receive every help from the courts. There have been cases in which a sum of twenty or thirty rupees lent by a *Sahukar* (a Hindu money-lender) has swelled, in the course of fifteen or twenty years into such a big amount that the unfortunate debtor after having paid back four or five hundred rupees, finds that he still owes to the *Sahukar* about as much again. The rapacity of the Hindu money-lender knows no bounds. Despite loud and repeated wailings of the zamindar nothing effective has so far been done to relieve his hardships.

I do not mean to suggest that the safeguards demanded by the minorities to protect their rights will remedy all these ills for some of them have manifestly no bearing on these matters. What I mean to imply is, that notwithstanding the fact that the governors are fully acquainted with these evils and possess all the necessary powers to effectively deal with them, and then there is also the official bloc to help government in the councils, they have not been able to do anything in this connection. How then, will they be able to safeguard the interests of the minorities, be they real or political in future? (By political minorities I mean the Muslims of the Punjab and of Bengal, who, although numerically a majority, have been converted into a minority by artificial means, and so weakened, that unless special measures are adopted, they cannot be restored to their full and real strength).

In short, the principle of safeguarding the rights of the minorities by investing special powers in the governors, is defective and impracticable. The governors should of course possess all the usual constitutional powers for dealing

with exceptional cases, but they cannot be trusted to remedy those evils which are the order of the day. To deal with these effective safeguards should be incorporated in the body of the constitution. Besides, it would not be proper as a matter of policy to entrust such communal matters to the care of the governors, for in the future constitution the governors would be merely constitutional governors, and their function will be to win the respectful co-operation of the people by exercising moral influence through a policy of strict impartiality. To entrust them therefore with the delicate task of settling communal disputes, would be to materially weaken their position, and destroy that influence which it is necessary for them to possess, and without which they will not be able to successfully perform their duties. Moreover, the minorities are rightly apprehensive that the governors will generally side with the majority community for without adopting that course they would not be able to smoothly run the administration of government. Under these circumstances, it is clear that it would be a bad policy to entrust the settlement of communal matters to the governors for in such a case the minorities will never feel secure.

There is also a constitutional objection to the above proposal. It is this, that the giving of these powers to the governors is opposed to the principles of provincial autonomy, because so long as the governors have the powers of direct interference in the affairs of the province the latter cannot be called autonomous. And if such power is now given, it cannot be said when the time shall come for complete provincial autonomy.

The Commissioners urge the following objections against the advisability of including safeguards in the body of the constitution.

“Spokesmen of various minorities, religious and social, have urged before us that the powers of Indian Legislatures should be so defined in the governing statute as to exclude the possibility of discriminatory legislation by making it invalid. “We are sure that statutory protection could not be limited to particular minorities, or to discrimination in matters of trade and commerce only. The statutory provision would therefore have to be drawn so widely as to be a little-

more than a statement of abstract principle affording no precise guidance to courts which would be asked to decide whether a particular group constituted a minority, and whether the action complained of was discriminatory. Moreover, having regard especially to the ingenuity and persistence with which litigation is carried on in India, we should anticipate that an enactment of this kind would result in the transfer to the law courts of disputes which cannot be conveniently disposed of by such means. It has always to be remembered that if a law court has jurisdiction to dispose of well founded claims based on solid grounds, it is also bound to listen to far fetched complaints with no real substance behind them. These objections are decisive against the proposal to prevent discriminatory legislation by attempting to define it in a constitutional instrument." (Vol. II. p.p. 129-130).

After making the above objections, the Commissioners continue—

"The only practical means of providing it is by the retention of an impartial power residing in the governors of provinces for the

purpose and, is lying upon them by terms of their instrument of instructions a specific mandate to use this power in all proper cases."

I have shown above that this method is defective and unsound, and that it will not only fail to safeguard the interest of the minorities, but will also weaken the constitutional position of the governors besides robbing the provinces of their autonomy. I will now proceed to rebut the objections which the Commissioners have advanced as operating against the proposal relating to the inclusion of safeguards in the body of the constitution.

1. The Commissioners say that as there are many minorities in India, it would be difficult to discriminate one from the other in enacting legislation, and that an indiscriminatory enactment will of necessity be very vague. Unfortunately the members have overlooked the fact that though the minorities are many in number their differences with the majority are for the most part identical, and therefore a law which is calculated to safeguard the interests of the Muslims will

also safeguard those of the Christians, and even of the majority *i.e.* the Hindus and the Sikhs. For instance if a law be passed to the effect that in places of private ownership no community shall be debarred from erecting a house for worship, it will affect the Muslims, the Hindus, the Indian Christians, the Sikhs and the Europeans, all alike. Or if a law is enacted that no discriminatory measure shall be passed without the consent of the minorities, it will effect all equally. Similarly, if it is put on the statute book that all communities shall be free to propagate their religion and that no restriction shall be imposed on religious conversions such as the obtaining of a certificate from a Magistrate, etc., it will effect all parties alike. In short most of these laws will be common laws effecting all equally, and consequently it is not right to say that since it is not practicable to include in the constitution safeguards needed for each and every community, hence the law will have necessarily to be made very vague. But even supposing that such is the case it will be the height of injustice to have the most vital interests of millions of souls interests

that affect religion, life and property exposed to all sorts of dangers merely on the ground that the statute book might be saved a few additional sections.

I ask and this includes my greatest objection to it : Will the instructions issued to the governors in regard to safeguarding the interests of the minorities, be vague and undefined or will they be detailed and comprehensive ? If they will be vague then do the Commissioners believe that merely vague instructions will suffice to protect the rights of millions of souls that comprise the minorities ? Will the minorities be satisfied and feel secure at this ? If they will be detailed and comprehensive, then why can they not be placed on the statute book ? The issuing of vague instructions to the governors will be a quite useless thing ; it may prove even harmful. In short the objection pertaining to vagueness applies equally if not more to instructions being issued to governors than to provision being made in the Constitution. It is just possible that in a case of the majority attacking the interests of a minority



the governor may dismiss the appeal of the latter on the ground that the statute book is silent on the point. Nay the position may become even worse if the majority should proceed to make their own laws in this connection. The powers of the governor can help the minorities only when safeguards are provided in the statute book in such clear terms as to enable the minorities to base their claims on them, and help the governors to decide a dispute in their light. The mere vesting of the governors with any powers cannot dispense with the necessity of including safeguards in the constitution. A governor at the most can be held, to be a substitute for a Supreme Court. But just as the establishment of a Supreme Court proves the necessity of a perfect constitution, rather than it being unnecessary, similarly the issuing of instructions to the governors necessitates the detailed mentioning of safeguards in the statute book rather than justifying their non inclusion. The objection of the Commissioners, therefore, has no substance in it whatever. Whether the decision of a disputed case rests with the governor or with any body else, the rights of the minorities

in matters concerning which they require protection should be clearly defined and safeguards provided for them in the constitution of the country.

It must also be remembered that unless these cases where in the Legislature will not have the power to interfere be clearly mentioned and defined in the constitution it would be unconstitutional for the governor to interfere, and if he does so with regard to any bill of the Legislature that would mean that although the Legislature was acting within its powers yet the governor vetoed the bill in favour of the majority, and this would practically amount to a negation of the principles of self-government.

It is to be thought that a constitutional government can be run on these lines, and then how long can such interference be stood? That would make the minorities feel that their existence depends upon the Governor's mercy, while the majority will on that very account begin to look down upon the former; and a new official bloc will come into existence which

would be as detrimental to the interest of the country as is the present one.

But if on the other hand minority rights are embodied in the constitution, then even supposing that the Governor is vested with the power to interfere in that behalf, his interference would be a constitutional act and the minorities will not feel that they are merely on the mercy of the Governor and whatever they would demand they would demand as a right.

2. The second objection raised by the Commission to the inclusion of safeguards in the constitution is that litigation would thereby increase for all sorts of cases whether weak or strong can be filed in courts

My objection to this criticism is what would be the attitude of the Governor in case he is the judge in such matters? Shall he accept or reject an appeal arbitrarily or will he adopt some regular procedure and decide after giving full consideration to the case? Or thirdly, will he before deciding as to what course to adopt, call for departmental report and then proceed accordingly?

• If he takes action on merely reading the names signed on the petition his decision would be worthless and he would be making himself ridiculous. If he acts on the report of some official two courses are open to him. One is to decide on the report of the minister concerned, but this would be like asking the accused whether any action would be desirable against him. The second course is to create a new department for that purpose, but then whence are those officials to be got on whose reports the Governor could absolutely rely and who would faithfully lay before him the real state of affairs and would not mislead him. If however the Governor were to personally go into the merits of such complaints as pertain to the rights and interest of communities and classes then either of the two following things would happen.

If the petitions are in a large number, as the Commissioners are afraid they would be, and the work to be done is meant to be real, then most probably no work would be done at all for where could be found a Governor who in addition to his multifarious duties pertain-

ing to the supervision and direction of administration as well as of legislation, the giving of interviews, the departmental correspondence, etc, would find time for fully considering and deciding all such complaints. In such a case not one but many governors would be required to do the work. And if secondly, the Commission mean that the governor will receive such memoranda merely to keep the minorities satisfied that they have not been left in a helpless condition and then any of his secretaries would formally note down on his behalf that the matter did not call for any interference, then why did not the Commission openly declare that there was no need for the safeguarding of minority rights and that they must leave themselves to the tender mercies of the majority who shall either force them out of the land as a result of their persecution or the persecuted minority will be crushed leaving the coast clear to the majority.

A considerable number of the Indian public is of the opinion that the Commissioners mean to take away with the left hand what they have conferred with the right. They maintain that instead of the present official bloc the Commis-

sioners want to create a minority bloc who being quite at the mercy of the governor will always side with him and at a mere hint from the latter would be prepared to oppose the majority. That is a ruse, they allege, which is meant to keep government out of the hands of the Indians. I cannot attribute such motives to the members of the Commission, but I am sure that no governor can efficiently discharge his duties in the manner suggested. The result would be that a minority would succeed to have its grievances redressed, and that perhaps even partially only in those rare cases when on the one hand it raises a loud hue and cry and on the other the Governor desires to convey a note of warning to the majority for some political reason, provided always that the majority does not raise up a counter demonstration in a bigger scale. In all other cases the governor would not be able to attend to such matters personally.

The members of the Commission have also not taken into consideration the fact that the governor being an executive officer he would naturally be susceptible to execute influences. It would be difficult for him to preserve

that judicial impartiality necessary in such matters. All his decisions would bear the impress of his executive capacity and the views of his ministry. In short the pitfall which the Commissioners intended to avoid by not going into the details of the rights of minorities still deepens and assumes a more dangerous form if instead of the disputes going to the courts the Governor were merely vested with general discretionary powers without safeguards being included in the constitution.

The question now arises that constitution being a mere static frame what is to be done as man cannot fully foresee the future needs. My answer to this is that our inability to foresee future requirements should not make us shut our eyes to our present needs. History has shown to us the various ways in which minority interests generally suffer, and then the majority in India makes no secret of its future designs against the minorities, and with these two in view necessary safeguards may be incorporated in the constitution. India is not the only country in the matter of having minorities. There are other countries which have minority communities and these have tried to solve this

question either by way of providing safeguards in the constitution or by means of covenants, and in some of these countries these expedients have worked or are working quite successfully. For instance in Zecho-Slovakia safeguards are provided in the body of the constitution and the rights of minorities are being satisfactorily protected through them. True that mere provision of safeguards is not sufficient unless there is the will and spirit to carry it out. But the question is which position is better, the one in which there is neither constitutional provision nor the sympathetic spirit of the executive or that in which at least such provision is made? If the provision is there, the minority shall have at least the consolation of being able to raise its voice in protest. It can at least appeal to the sober minded people among the majority. But the absence of all safeguards on the one hand and of the sympathetic spirit of the executive on the other dooms them to despair.

**The Hindu Point of View  
of the  
Minority Safeguards.**

It is necessary to deal with the Hindu viewpoint of the minority safeguards as it has



weighed a good deal with the English statesmen who are generally averse to the apparent form of the proposed safeguards. Brought up as he is in an atmosphere where this question does not exist an Englishman is apt to look at every proposal pertaining to safeguards as an indirect attack on his own system and he fails to realise that every people has its own peculiar conditions, ignoring at the same time that his present organization has passed through a number of stages of evolution, whereas India is just undergoing the preliminaries. If, however, an Englishman were to bear in mind that bloody strife between the Catholics and the Protestants which England had to pass through he would realise the necessity of providing adequate safeguards for the weaker classes and communities. Let not, therefore, Great Britain look to her present conditions but to those of her past history and then say if any special measures are not needed to prevent a recurrence of those events which disfigure her history of the sixteenth century. But there is no denying the fact that as conditions stand an Englishman is averse to any safeguards being provided in the constitution.

It is therefore necessary to detail at some length the Hindu point of view in order to enlighten at least those Englishmen who are amenable to reason and do not like to be kept in the dark. By the Hindu viewpoint I mean the Hindu Maha Sabha mentality which is unfortunately at present over-shadowing the Hindu outlook as a nation. I believe there are a good many fair-minded and generously inclined Hindus such as Sir Tej Bahadur Sapru who will not hesitate to advocate a reasonable solution of the communal problem at the Round Table Conference, but they mostly represent the dumb and non-vocal section of their community, while the vociferous majority represents the Maha Sabha mentality. Now this Hindu viewpoint is this that there does not exist any danger to the minorities and that demands relating to safeguards put forth by the Muslims and other minorities are detrimental to the best interests of the Indian nation as a whole, the Muslim demands being particularly dubbed as an attempt at setting up a Muslim Raj in India. I have already dealt with the point that these safeguards do not at all conflict with the national cause, but that they help and promote it. The Hindus

insist upon the negation of these safeguards, not because they are nationalists but because they are afraid of the minorities thus learning to stand on their own legs and securing some of their rights which the Hindus are now usurping. Every man can understand that the purpose underlying the framing of a constitution is that the different parties, classes or communities inhabiting a country may thereby enter into a covenant with each other to work unitedly and safeguard each other's interests. Now it is the duty of the Hindus to prove that the minority demands deprive them of any of their lawful rights, and if they cannot do so we would be justified in drawing the conclusion that they do not like to concede any rights to the minorities. For instance why is it that the Hindus are averse to the insertion of a clause in the constitution establishing the free and unimpeded preaching and propagation of religion if they have no ulterior motive? If in the words of Dr. Gokal Chand Narang they are not minded to interfere with the free and peaceful conversion of a Hindu into a Muslim and have no intention "to kill or be killed" on such occasions, what is the harm if a clear safeguard is mentioned in the constitution

in this respect; or if there is nothing in the Hindu mind to injure the British trade in India by passing some exclusive legislation in this connection, why should they hesitate to mention in the constitution that no such law shall be passed as may adversely effect the trade of a particular community.

In short the minority demands with regard to safeguard do not deprive any community of its just rights. They are simply meant a protection against the possible tyranny of the majority, and are in no way calculated to weaken Government or to injure the interests of the country as a whole. Nor are they to be taken in the light of a menace to the majority community. If one really and sincerely intends to do a thing one is never afraid of putting it in black and white, and a constitution after all is nothing but a declaration of a country's intentions. Why should the Hindus, therefore, demur to the inclusion of such safeguards in the constitution as they have always been orally declaring their intention to observe.

**PART II.****CHAPTER I.****The Constitution.**

Having dealt with all the preliminary points I am now in a position to say something about the question of constitution itself. I must say without hesitation that keeping in view the Indian conditions I would have a constitution of the rigid type in which all minority and provincial rights are clearly stated. The majority of course should be entitled to do whatever it thinks proper for the well-being of the country but until the minorities begin to have confidence in the majority effective safeguards should be provided so as to ensure that the majority does in no way usurp the rights and injure the interests of the minorities and these safeguards should be embodied in the body of the constitution. A constitution may not carry with it any material force but it possesses great moral force and though a majority may sometimes be unscrupulous but no community would be wholly wanting in members who would hesitate to insist upon unscrupulous adherence

to a solemnly entered pact, with the result that with the moral backing of such honest members, the minority may to a certain extent succeed in safeguarding their rights.

Governments do sometimes violate their pledges and pacts but nobody says on that account that pacts and treaties are quite useless and that therefore no pacts should be made. No doubt that pacts may be and are violated like anything but there can also be no doubt as to the fact that more wrongs have been committed under no-pacts than under violated pacts. All men are not of the same type. If there are some who break their pledges and pacts there are others who not only themselves take care to see that covenants are faithfully observed but also make sincere efforts to prevent others from violating them and in this way the wrong is materially mitigated. It is quite necessary then to include proper safeguards in the body of the constitution so as to win the sane voice of the country as well as the public opinion of the world in support of the minority rights.

I do not, however, mean to suggest that mere embodiment in the constitution of the

clauses relating to safeguards will do the needful, for though public opinion is very helpful but sometimes interpretations made in good faith of the same legal document may differ. To obviate this difficulty we should have an additional provision by means of which we can secure a non-party, as well as trustworthy interpretation. That brings me again to the Commission's recommendation which says that the final authority in the matter of interpretation shall also rest with the governor. But as I have already shown, this is not only injudicious but also quite impracticable. It would adversely affect the position of the governor and will not be helpful to the minorities. The only solution in my opinion is that which the world has found out by experiments, *i.e.*, the work of interpretation should be entrusted to the courts. Constitution is a legal covenant or pact and it can be changed only with the consent of the parties concerned. Therefore those who violate it commit an illegal act. This necessitates the creation of a department to decide whether there has been any violation; and the matter must furthermore be decided in a way that would leave no room for any reasonable suspi-

cion. That object can obviously be attained only through the judiciary. Of course judges are also men with human likings and dislikings. But there is one thing in them, called the judicial spirit or in plain words the habit of doing justice, which often automatically brings them to the right point, however swayed they might be one way or the other. It does happen to most judges that cases come before them in which they feel a strong leaning towards this or that party but if their judicial temperament has not been vitiated by corruption, then because of the fact that they have more often to deal with cases where they have quite a detached and impartial outlook, they generally do not fail to develop a sense of impartiality and a habit of doing justice which is not found in most others. In addition to this judicial temperament there are certain precautions provided by the law which a judge has to observe scrupulously and which in the majority of cases force him to remain impartial. For instance the proceedings of a court of justice must as a rule be held in public and both parties have to be openly heard and cross-examined. Then there is the framing of clear cut and well defined



issues which are of immense help in conducting the proceedings on right and fruitful lines. Again the judge is bound to write or dictate the judgment himself and in his own words while both parties are entitled to take out copies of the judgment as well as the proceedings. These may appear to be ordinary things but they are in truth the essence of justice and are to a very great extent a source of a satisfaction and confidence for both the parties. In sharp contrast with this all executive work is, and must needs be, done behind the scenes which naturally creates doubts in the minds of the parties concerned which are furthermore not allowed to produce evidence or cross-examine each other. They have also no opportunity to clear away any doubts, neither does the executive frame any issues to invite discussions on the points. Again unlike the case in a court it is not necessary that the decision be written or dictated by the executive head. That is mostly done by the subordinate officers while the head of the department simply goes over it, to see that there are no mistakes. But evidently the careful reading of the whole file and then the writing or dictating of the decision by one-self is quite

different from simply going over a thing written by somebody else.

Similarly it is not necessary for the executive to have the whole proceedings written down, for a goodly portion of it depends upon oral consultations and mutual exchange of views between the departmental heads and their subordinates. That is why the executive do not have such a complete record as have the judiciary; and even of this incomplete record the parties have no right to take out copies. The parties are therefore never in a position to judge the accuracy or otherwise of executive decisions and orders. These are the main differences between the judicial and executive proceedings which go to make the former much more trustworthy than the latter.

I do not mean that the judiciary is incorruptible. But when two things are one has to go by the averages compared in that manner a bad court is certainly harmful than a bad executive. Similarly a good Court is certainly trusted than a good executive in the matter of civilrights. This is not because the latter is manned by less efficient

men, but because the rules, regulations and conventions of the former are more strict and more in conformity with the requirements of justice and equity, and these things gave a greater sense of security to the public. One should not be misled by the fact that the ties of attachment and friendship are to be met with in the case of the executive only, while in the case of the judiciary they are practically non-existent for that does not indicate that the decisions of the executive are wiser and sounder. The popular attachment to the executive arises not from any greater soundness in their decisions but because, whereas the functions of the judiciary are based on cold and feelingless reasoning, sentiment plays an important part in the dealings of the executive and naturally love dwells in the neighbourhood of sentiment. With equal truth and for similar reasons it may be said that hatred, the converse of love, is also found more in the dealings of the public with the executive than in their dealings with the judiciary for a bad executive officer is hated more strongly than a bad judge.

I have had occasions to exchange views with Muslim leaders of learning and experience

and strangely enough all of them have differed with me on the point that the interpretation of the constitution should be left in the hands of the judiciary. They ask where can we get such a judiciary as will impartially adjudicate on points. If the judges are nominees of the Indian Government who would naturally be either Hindus or Muslims, they could not be supposed to be free from communal bias, as their own political and communal interests would be bound up with the very points in issue. And if they will be appointed by Whitehall doubts will ever be entertained as to their impartiality, for, in making such appointments the British Government would naturally be deferential to the wishes of the majority, and judges appointed under such circumstances could not be expected to be quite impartial. I admit that there is some weight in this argument but my point is and that remains still unanswered, "with whom is then to rest the final decision in such matters?" If we admit that the majority will never go wrong within the constitutional sphere, then there is no need for any non-party provision for the settlement of differences. But if such a

complete trust and confidence can be resposed, in the majority, what need is there for any safeguards either? But if it is not only possible but probable that knowingly or otherwise the majority would sometimes decide against the provisions of the constitution, or in some instances a minority or a province or even perhaps a group of provinces would regard some action of the central government as unconstitutional then it is imperative to have some department which may decide in case of differences. If we do not have any such provision then all our constitution making becomes useless, for in that case the constitution as well as its interpretation will practically be as much in the power of the majority as any ordinary law of the country.

But if these leaders think that the proposal of the Simon Commission is the better one *i.e.* the Governor or the Governor-General should have the power to decide such matters, even then *they cannot say that a Supreme Court is not needed* for in that case they would only mean that they do not want a separate Supreme Court established as such, they would have its power given

to the governors and the Governor-General. But this would be a self contradiction. Their chief objection to the creation of a Supreme Court lies in the fact that it would be difficult to find judges who would do justice and that there would be no authority either which could be safely relied upon to appoint absolutely disinterested judges. But when they propose to give the powers of a Supreme Court to the governors and the Governor-General they evidently admit the existence of an authority which can be relied upon in the matter of appointing judges and they also admit that such people are available as would do justice in such matters. Hence there is no force in their objection to the constitution of a Supreme Court. The only question that remains to be solved now is as to whether a separate permanent court should be established for settling disputes relating to the interpretation of the constitution and its application, or the Governors and the Governor-General should be considered to be a court for this purpose.

If they want the latter, then I should say that I have already shown the futility of entrust-

ing the Governor or Governor-General with this duty. This would neither safeguard the rights of the minorities, nor would it keep intact the dignity of the governors. Even the best of governors will have to go away with discredit, not on account of any personal weakness of his own but simply as a result of this constitutional defect.

Those who are opposed to the establishment of a Supreme Court, do not, I think, like the entrusting of these powers to the governors even ; for I have also heard them remark that by investing the governors with the safeguarding of the rights of the minorities, the Simon Commission has proposed the enslaving of India for good. I suppose, therefore, that their opposition to the creation of a Supreme Court is based only on the difficulties involved in it, but they have not at all taken into consideration the fact that the rigid type of constitution demanded by them necessarily needs a department which should decide that the constitution is working properly and that it is being interpreted correctly. In maintaining that position they are as much at fault in ignoring the prin-

principles of constitution as the Simon Commission. While the Commission recommends a flexible constitution for the provinces and proposes that the governor should look after the rights of the minorities; the Indian opponents of the Supreme Court say that the constitution should be rigid but that there should be no court to give its verdict in cases where the constitution is violated. In other words, the one makes it flexible and then removes its flexibility, while the other makes it rigid and then ignores its rigidity. Both of these proposals are unconstitutional and unreasonable. I wonder how people whose daily business is politics can commit such mistakes.

As my object here is to make an appeal not only to those who are well versed in politics of the day, but also to those, who, though not inferior to the politicians in general intelligence, are not well versed in their self-made technology, therefore, in the interest of the latter, I may further explain what I have said above. The depth of the science of politics so far fathomed by the human brain has led politicians to arrive at the conclusion that in all constitutional go-



vernments as opposed to absolute monarchy where the king's word is the law, there obtain two kinds of laws :— (1) constitutional laws which lay down how and to what extent the government, whether monarchial or republican and in the case of the latter, whether legislative, executive or judicial, is entitled to make use of its powers : (2) general laws, which do not define the powers of the government but aim at the good government of the country and the guidance of the people.

The second conclusion arrived at by the politicians is that democratic governments are also of two kinds : (1) That form of government where the law is wholly determined by the will of the majority, *i. e.*, all kinds of laws—whether constitutional or otherwise—are framed by a majority of the votes of the duly elected representatives of the country. As all laws of this kind of government are, without exception, made by a majority of the representatives and as they can be amended or repealed at any time by a majority, the constitution of this kind of government is called flexible, *i. e.*, the majority can alter its constitution whenever it likes to do.

so just as it can alter other laws of the country. In such a case the constitutional laws do not enjoy any special protection over and above the others. The legislature or legislatures as the case may be are under this form of government fully empowered, to make amend, or repea any laws.

(2) The second form of democratic government has its constitutional laws of a different nature from the general laws; and it is supposed that the component parts—individuals, communities, provinces or states—of a country having this form of government have entered into a sort of a covenant to establish the government. They impose certain restraints upon the powers of the government, which though fully authorised in matters of general administration, is not allowed to make any legislation on certain reserved subjects unless all the parties constituting that union willingly concede to it the necessary powers to do so. In other words, the people of such a country do not give full powers to their government. *The whole country or any of its constituent parts—individuals, communities, provinces or states—reserves to itself certain*

powers so that the government may not injure their interests in any way and may not be able to do anything in this respect without their consultation. Barring these reserved subjects, however, in general matters of administration, the government is fully authorised to pass any laws in accordance with the wishes of the majority, no individual, community, province or State being entitled to raise any objections against such laws. This form of constitution is termed *rigid, i. e.*, under this constitution the government is not entitled to affect any change in the fundamentals unless the component parts of the Union—individuals, communities, provinces and states—express their willingness to do so in the prescribed manner. There are various ways of ascertaining the wishes of the several parties entering into the covenant but they need not be mentioned here.

It would be easier now to understand why a government having a flexible constitution does not require any special department to decide upon the constitutionality or otherwise of any bill or measure or enactment, because it is fully empowered to decide upon all matters. There

is none to find fault with the decisions of such governments. But it is quite different with those governments the constitution of which is *rigid* or non-flexible. As their powers are limited, there is needed a department which should decide as to whether in passing a law they have not outstepped their limits. All the leading authorities on the principles of constitution are agreed on the point that for all governments having a *rigid* or non-flexible constitution, *i. e.*, where the country does not give its government full freedom of doing what it likes, it is essential to have a department which should decide, at the appeal of a party, the question of the constitutionality of a law. For instance, Lord Bryce, dealing with the Canadian Constitution, says:—"The courts have, as sound principles require, where a legislature is restricted in its powers by the provisions of a constitution enacted by superior authority, the function of passing judgment on the constitutionality of Statutes." (*Vide* Modern Democracies Vol. I, p. 542). The above quotation makes it clear that, in the opinion of Lord Bryce, for a government having a rigid constitution or in other words where the legislature is 'restricted in its powers,' it is necessary to have

a department which may be able to decide in the case of an appeal that the legislature has not outstepped its proper limits. There is no doubt that according to Lord Bryce many continental politicians, in opposition to American authors, are quite against this principle. They do not think that any department, apart from the legislature itself, is needed to decide questions of constitutionality. He says, "This view, however, does not prevail in continental Europe, where republican Swiss and French as well as monarchist German lawyers have clung to the tradition which subordinates the judiciary to the executive and legislative powers. Two very high Swiss authorities, while admitting the American system to be more logical, observed to me that in Switzerland no harm had resulted, and that the rights of the people could not be seriously infringed, because they can be invoked to protect themselves." (Vide *Modern Democracies* Vol. I, p. 401).

But if we look into the meaning of the Swiss authorities mentioned above, we find that there is no material difference between the two views; and that the Swiss Constitution does not

show the non-existence of a Supreme Court in the country. The above statement of the views of the two Swiss authorities themselves makes it clear that there does exist a Supreme Court even in Switzerland. According to these authorities a Supreme Court is not needed in Switzerland, because the Swiss people can, in a case of the infringement of their rights, be invoked to protect themselves.

This means referendum, *i. e.*, the matter can be referred to the whole country which passes judgment on the constitutionality of the statute in question. Lord Bryce further explains the position in his next sentence as follows: "If a law of the National Assembly is arraigned as a breach of the constitution, a demand may be made forthwith under the referendum for its submission to a popular vote which will either reject or confirm the law." (Ibid p. 401.)

Similarly Professor W. B. Munro, Ph. D. LL.D., says, "If on the other hand, any measure is petitioned against and is submitted to the voters, an adverse majority at the polls will render it null and void. " (*Vide* The Governments of Europe p. 717.)

These two citations show that even in Switzerland there exists a department which can be appealed to in cases when the Constitution is violated, though of course, the Court of Appeal here does not consist only of a few persons, rather it consists of the whole of the country, which is as much a Supreme Court that consisting of a few individuals. In fact the continental authorities have failed to understand the position of the American and the other authorities on constitutional law who do not insist upon any special or set form of a Supreme Court for non-flexible constitutions. What they lay down is only this that wherever a constitution is non-flexible, it is necessary to have a department which should, at the time of a dispute, pass judgment on the constitutionality of a law. To leave the decision of such disputes to the adjudication of the legislature is tantamount to appointing one of the parties to a suit to act as a judge in the same case. The Supreme Court principle is inherent in the referendum clause of the Swiss constitution which suits that country quite well. It cannot be said, therefore, that there is no Supreme Court in Switzerland. All that can be said is that the

American Supreme Court is different from the Swiss one.

If a referendum is taken to be a form of Supreme Court, the question may very well be asked as to why the same form of Supreme Court be not introduced here in India ; and that if a community or a province thinks that a breach of the constitution has been committed by the Federal Government, why popular votes should not be resorted to and the matter settled according to the majority view. I should, therefore, like to point out here the difference of opinion between the Continental and the American authorities, regarding the necessity of a Supreme Court for a non-flexible constitution, has arisen because due attention has not been paid to the fact that every country needs a separate form of Supreme Court determined by its own peculiar circumstances. Space does not allow me to enter here into the details of a question and show how different forms of Supreme Courts are needed in different circumstances ; but keeping in view the question of India, I would like to say in this connection that the rigid type of constitution generally stands in



need of a Supreme Court for two reasons: (1) to ward off the inroads of an oligarchy and (2) to prevent the encroachments of the majority. Where the framers of a constitution are faced with the danger of a few intellectuals, capitalists, landlords or religious leaders twisting the democratic form of government into an oligarchy, there they make a non-flexible constitution in which they make such provisions as to preclude the possibility of its being changed without the consent of the majority. Even in the case of a suspected breach of the constitution, the decision is left in the hands of the majority of the people of that country so that no minority might usurp the government of the country unnoticed.

Where however the constitution-makers are afraid of a majority swallowing up a minority and where they have to protect the rights of minorities who join the government on the condition that their identity be duly preserved, there they do not keep in view the protection of the rights of the majority only but also make provisions in the constitution itself with a view to protecting the minorities against the majority.

The question of the breach of constitution is not entrusted in this case to the adjudication of the majority but a separate department is created for that purpose.

It is obvious that where it is deemed necessary to guard against an oligarchy usurping national interests, there the best kind of Supreme Court is to vest the power of decision in the majority of the people themselves whose pronouncement carries conviction and satisfaction as against the decision of a few. But where a constitution is based on the principle of preserving the identity of particular communities or provinces, there it would be a violation of the very principle of constitution to vest the powers of the Supreme Court in the majority of the people of that country. It would be like appointing the accused to pass judgment upon himself.

In short, different kinds of Supreme Courts are needed in the two cases mentioned above. In the first case, the constitution can be protected by a majority of the people only, but in the second case, the same provision would destroy the fundamental principle of constitution itself.

Hence the difference between the constitutions of Switzerland and United States of America. In Switzerland they had to guard against the danger of oligarchy, so they entrusted the decision of the constitutionality of statutes to a Supreme Court consisting of all the people of the country. In the U.S.A., on the other hand, this danger did not exist. There the component parts or the constituent states were anxious only for one thing *i.e.* the preservation of their identity. Each State was keen on maintaining its own independent existence and was therefore afraid of the other in this respect. Hence they devised a constitution in which certain matters were absolutely excluded from the jurisdiction of the majority and imposed such restrictions as would preclude every possibility of the majority injuring the minorities; and in certain other matters such restrictions were imposed that a mere majority of the elected representatives could not decide anything. And it was further laid down in this connection that if the minorities, which in the case of the U.S.A. were states, did not, as such, by an overwhelming majority support a measure, it was not to be considered as passed. In the peculiar circumstances

of their country, they did not think it fit to make a Supreme Court of the whole population of their country ; for it was exactly this that they wanted to avoid. Hence they set up an independent Supreme Court separately which should decide all questions of constitution. Accordingly they vested in the president the power of appointing such judges with the approval of the Senate. In this approval of the Senate is working the same spirit of the states that they should, as such, have an opportunity of seeing that no such judges are appointed as would overlook the rights of the minorities *i.e.* the states.

In short, Switzerland and the U.S.A, in view of the peculiar conditions of each country, have both evolved their own forms of Supreme Courts. The one may not have given it the definite appellation of a Supreme Court, but there exists a department to interpret and protect its constitution, and it exists there in the form best suited to the requirements of that country.

I have said that in Switzerland it was with a view to guarding against the usurpation of power by an oligarchy, while in the U.S.A, it

was to protect against the encroachment of the majority, that the constitution was framed. This is not groundless.

History as well as the constitutions of those countries bear it out. As to the U. S. A., every student of history knows that at the time of the framing of that country's constitution the greatest danger was the fears entertained by every state lest a combination of other states should destroy its very existence. That was the main problem the framers of constitution in that country had to tackle. One of these, Alexander Hamilton, an eminent personage of his day gives us a peep into the attitude of the various states at that time in the following words addressed to the Assembly held to frame the constitution, "Give all the power to the many and they will oppress the few. Give all the power to the few and they will oppress the many. Both ought, therefore, to have the power that each may defend itself against the other." (Constitution of U. S. A., by James M. Beck, Solicitor General p. 117). That the same spirit swayed all the members is evident from the following words of the same authority, "The debates are full of

utterances which explain this attitude of mind." (Ibid p. 116).

Even if we don't go into the historical genesis of the subject, the very composition of the U. S. A. Senate brings out this aspect very forcibly, for it has been laid down that every state is to return equal number of senators whatever the size or population of the state may be. Even with this the states came to be satisfied with greatest reluctance, for they were insistent upon equality of representation in the Congress as well. In short the constitution as well as the history of the U. S. A. amply bears out the fact that in framing its constitution special care was taken to see that neither the Central Government nor the states individually or in groups could render any harm to any member of the federation.

In the case of Switzerland history does not show that its constitution was framed with a view to safeguarding the interests of any member of the federation against any particular class or individuals, for Switzerland took a long time to develop its constitution, but it is clear from its history as well as the history of the surrounding territories that at the time when its constitu-

tion was devised the chief danger which the framers of constitution had to guard against was the fear of the domination of the church for rivalry between church and state was much in evidence in those days and it was to curb the growing power of the former that the latter took special care to provide against. Moreover there is internal evidence to prove that in Switzerland an effort was made to guard against the usurpation of power by a certain particular class of people. For instance certain Christian sects were banned and certain restrictions were imposed on the priestly class as such. It was a similar apprehension that made Switzerland refuse to admit Vorarlberg into its Federation. (*Vide* Modern Democracies by Lord Bryce under the heading of Switzerland as well as Encyclopæa Britannica Edition Vol. 21. 14th Edition).

In short the nature of the Supreme Court corresponds to the provisions of the constitution of a country. We shall therefore have to keep in view the special needs of India and the condition of things prevailing here. We shall have to see whether we want a rigid constitution for

India with a view to safeguard the rights of the minorities or to protect the majority against the harmful encroachment of some powerful minority. If it is the former, *i. e.*, the protection of the minorities against the majority, as all know that it is, then we must needs have a Supreme Court of the American type. If on the other hand, it is the latter, as everybody knows it is not, then the Swiss type, *i. e.*, referendum would be the best.

To sum up, the Indian constitution should be of the rigid type, clearly embodying all those safeguards that are necessary for the protection of the minorities, and at the same time making some provision for deciding in cases of difference of opinion whether a breach of the constitution has been committed. What would be the clauses of the constitution, how would they be amended, and how would the Supreme Court function. I shall not discuss here, as their proper place in my opinion is after the discussion of the problem of federation which I now propose to take up.



## CHAPTER II.

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### Federal Government for India.

In conformity with the Montford Scheme the members of the Simon Commission have recommended Federal form of Government for India and in my opinion this is the most important recommendation that they have made, a recommendation that out does that of the Montford Scheme in that the latter has put forward a worked-out plan which bids fair to become truly federal whereas the former though recommending the federal form as a goal suggested no detailed scheme conforming to the principles of federation. The Simon Report not only deals with the scheme in its various stages, but has also tried though not effectively to adhere to the principles of federation throughout.

In fact none acquainted with India can make any other recommendation. India is not a country, it is a sub-continent, the inhabitants of different parts of which are now slowly awakening to a national consciousness which however is not strong enough to justify a uni-

tary form of government. Secondly India does not possess any common language, every province having a language or languages of its own. This difference is too great to be ignored. Again there is a good deal of racial difference. The Hindu of the North is radically different from that of the South. Peoples of the South claim to possess a civilisation older than that the Vedic and even assert that the Vedic teaching is based upon their Tantras.

Against this the Hindus of the North not only extol the Vedas above all other religious books but they claim their production in the very beginning of the creation thus anti-dating their civilisation to that of any other nation. Then there is the difference of creed and religion. Hinduism though quite strong in the North, Islamic civilisation has produced a sufficiently deep impression in these parts, but in Central India Hinduism reigns supreme. The South though Hindu in religion, yet what one meets with everywhere is the Dravidian civilisation which in spite of the crushing pressure of the Brahmin has preserved its identity and is ever ready to assert itself. There is then

the difference of character. The Pathan of the North-West and the native of the Eastern Bengal have nothing in common between them. They stand as far apart as the Montenegrin from the native of Brittany. The Sindhi is quite unlike the U. P. man while the Punjabee forms a strange contrast with a Beharee. Differences of course exist in other countries too, but they are not so radically pronounced. In India the differences are so great that what is needed for the local needs of one part of the country is quite unsuited to those of the other.

No one set of laws will equally fit all provinces nor can it be a means of promoting peace and prosperity. On the top of all comes the question of the native states who are at present under a sort of semi-independent personal rule. If India wants to progress some provision will have to be made for the inclusion of the states within the constitution but but without affecting their autonomous position for no state would consent to lose its independence. Under the circumstances if any scheme can work out successfully it is the Federal form of Government and coming as it does

*from the Simon Commission it assumes a very great importance.*

The question now arises what sort of Federation are the Commissioners prepared to concede to India. Here the report is so vague that all who have read it differ as to its import. On the one hand it maintains that the "union of constituents such as the Indian States with the provinces of India, the former autocratic and the latter democratic, necessarily involves going to the greatest possible internal freedom to the federal units." (*Vide* Simon Report Vol. II, p. 18.) On the other hand the report says, "The ordinary legislative powers of the revised councils will be extensive for they will cover as at present the making of any law for the peace and good government of the provinces, with only such restrictions (effected by the requirements of the previous sanction of the Governor-General) as are necessary in the case of bills which obviously encroach upon the central sphere. We strongly desire to see maintained the provisions of the existing Act which secure in practice a proper distribution of legislative topics between the central and the

provincial legislatures. The provisions avoid opening the way to challenge as to the validity of an enactment which has received the Governor-General's assent, and prevent the flood of litigation which might ensue from a more rigid distribution of legislative powers." (Vol. II p. 82).

The quotation cited above shows clearly that the councils shall enjoy no better powers than they do at present and these being very meagre it would be a misnomer to call the provincial councils as being autonomous. Moreover it is quite clear that whatever meagre power is intended to be conceded to the provincial councils is taken away by empowering the Central Assembly to legislate for the provinces with the assent of the Governor-General. That practically robs the provinces of all autonomy. Thus to call the provinces autonomous is merely playing with the word and fooling the people.

These two contradictory statements by the Simon Commission have evoked differences of opinion. Some believe that the first quotation

purporting to concede full autonomy to the provinces is a statement of principle and the latter merely a precautionary measure meant for the transitional stage. Others hold the latter quotation as representing the true attitude of the Commission who while trying to make a show of conceding autonomy in the provincial sphere have really vested all power and responsibility with the Central Government. The words Federal System and Autonomy have been introduced as mere catch-words connoting nothing, for the provinces have been left with a vague form of constitution with little room for improvement. If we are to accept the second statement of the Commission as the annunciation of their principle we shall surely side with the pessimist who sees no hope for India. But I am sure the members of the Commission have not made these apparently contradictory statements purposely. The great stress they have laid on the suitability of the federal system and their vigorous efforts to prove that at present, it is not proper to concede any powers to the Central Government for in conformity with the principles of federation it is the work of the provinces to do so

clearly establishes their sincerity in the matter.

However as doubts have been expressed about the real intentions of the Commission it is incumbent to lay down as a matter of principle in clear and unambiguous language that India will have a full Federal form of Government and that the Central Government shall have only those powers that are delegated to it by the provinces either directly when they are fully autonomous, or indirectly through the Round Table Conference now to be held and afterwards declared by them to be vested in the Federal Government. All other powers should rest with the provinces, the Central Government having no power of interference.

### **Objections to Federal System and their Answers.**

Some Hindu politicians are opposed to the idea of federation. They assert that it will weaken the sense of nationality by encouraging centrifugal tendencies. Some even allege that the

Englishmen in devising this plan mean to create in the provinces a sense of independence and separate identity in order to thereby keep India in perpetual bondage. These objections are not being advanced by ordinary Indians. They are even attributed to men like Mr. Sastri who is said to have expressed similar views on a certain occasion during his recent stay in England. He is reported to have maintained that the federal system is calculated to prevent the making up of Indians into a United Indian people. I have never had an occasion to meet Mr. Sastri personally, but I hold him in high esteem for I look upon him as one of those few Indians who think twice before they say anything and who do not add to the flame of racial and religious animosities that are the bane of India. A view emanating from such a personage deserves a careful consideration by all and that is why I give his opinion my best consideration and carefully weighed all its pros and cons. In spite of all effort however I have been unable to find anything entertaining in Mr. Sastri's objection. A deep study of the history of mankind brings out the fact that just as men differ in their national as well as individual capacities



similarly they differ as to time and place. If we translate an individual or a people from one period to another we would find important differences between the two. Similarly if a people were to be taken from one country and settled in another, they will develop different traits and character. Take for instance the British Colonies. In these we find laws different from those prevailing in England, while as a matter of fact the colonists are inhabited by those very people who were once nations of Great Britain. That is obviously due to the fact that with the change of climate and country their needs underwent a change, likewise. The colonies do not even bear uniformity to one another. The Canadian colonists have devised for themselves laws different from those devised by the Australians and the New Zealanders. This difference does not exist in the case of general laws only for even the constitutions differ. Now if in view of this diversity a person were to set about comparing and contrasting the constitutions of the different colonies with a view to choose the best he will be liable to blunder, despite the fact that he may hit upon a few real mistakes here and there. He will be led to draw invidious dis-

tinctions and begin to prefer one law to another while as a matter of fact in such matters there is no question of preference, for, laws suiting the conditions of one country might be unsuitable to those of another. If a law has worked well in one country it may not necessarily work well in another. In short it would be a mistake to pronounce in favour of one set of laws as opposed to another, without giving due consideration to the conditions prevailing in a country. One cannot generalise in such matters. If one does so, one is misled and consequently misleads others. In short it is not without justification that we find different types of constitutions in different countries. Knowingly or instinctively the people of various countries have apprehended their need and legislated accordingly. We cannot therefore maintain with reason that Unitary form of Government is the best in all cases, neither can we affirm the same in the case of the federal system. Again in a *Unitary form of Government it cannot be said* whether a personal rule is better or an oligarchy or a democracy, and neither can in the case of a Federal Government can it be asserted whether a Government with a strong centre is preferable or

that with a weak one. All that we can affirm is that such and such a form of government suits such and such a country, people or religion. Similarly we can not lay down as a universal principle that such and such a form of government contributes towards national consciousness: all we can say is this that this or that people can develop a unifying atmosphere by adopting this or that form of Government. Hence it is quite untenable to hold that federal system does not foster national consciousness.

Sense of nationality does neither depend upon Federal nor upon the Unitary form of Government. It solely depends upon possessing a form of a Government which people may call their own and which they may feel proud to honour and defend. Any form of Government that succeeds in fostering this feeling of jealous regard and proud egotism would develop sense of nationality.

If on the contrary a system of Government, whatever its form, cannot foster that feeling it would not develop that sense either.

National consciousness would therefore be created only in the case of that system which wins the hearts of the people however loose the system may be. History is replete with instances where personal rule brought about unity and national consciousness whereas a republican government had failed to do so. A case in point is that of Italy which seems to have awakened to a new life under Mussolini.

Similarly there are instances where the Federal form of Government has engendered a high sense of nationality as has been the case in the U. S. A. or even Ireland which as long as England kept her attached to herself refused to accept British nationality but when it was granted freedom and admitted as an equal partner in the British Federation of Nations, for the British Empire is also a kind of federation, then Ireland identified itself with Great Britain. Hence if we are real well-wishers of India and are sincerely desirous of developing a truly Indian Nation, it is our duty to see that all provinces, as well as communities are satisfied and contented, and under the conditions prevailing in India that can be brought about only

through a perfect federation. As long as the various races, religions, languages, and civilisations found in India are not made to feel satisfied and their apprehensions for the future set at rest, through a truly federal system the minorities will never regard the Government of India as their own government and as long as the minorities do not look upon the Government as their own government, nationalist feelings cannot be engendered, however centralised the Government may be. Every one who has studied human psychology will concede that as long as there exist radical differences and acute mutual mistrust between two persons it would be better to keep them apart at least for some time in order to give them time to think over. But if you hasten to put them together against their will one of them may even kill the other on the mere apprehension of a plot against one's own life. It was a very farsighted and sagacious act on the part of the U. S. A. people to provide adequately against such a contingency and now they are a united Nation. We, too, can become a Nation if we do the same; otherwise if we merely go on parroting our demand for reform without understanding our real ills

and their remedy God alone knows what would be the fate of India, our so far ill-fated motherland.

The second objection to the Federal form of Government is that it brings about a dual control, that is to say an individual has to submit to two authorities, Provincial and Central, which is productive of more chances of friction for both the state and federal governments will try to extend their spheres of influence. I cannot go into the details of this question, but I must point out that dual control can only breed friction when the two governments issue contradictory orders. But if their functions and spheres are different, there can be no occasion for friction or difference. In matters where the provincial government is to function there the federal has no concern, and *vice versa*. Under such conditions differences can arise only out of mistake or mischief. The mistake will be dealt with by the Supreme Court, whereas mischief making being only an evidence of discord and enmity between the different parts is a justification of the federal system and not an argument against it.

Some people say, that under the constitution of the U. S. A., foreign as well as interstate trade, was the special sphere of the federal government, while the internal trade of the states was a state affair, but that this distinction could not be maintained by the introduction of the railways, with the result that the Supreme Court had great difficulty in making the law fit the changed conditions and from this they conclude that the federal system is not a good one.

My answer to this is that this serves as a lesson for us how to frame a constitution suiting our present conditions for necessity after all is the mother of invention. Moreover the objection is not valid as a constitution can be amended under certain conditions. If with a view to some changed conditions all the component parts of a federation feel the need for some improvement they would themselves desire a change and then there can be no objection to the constitution being suitably amended by common consent.

As a matter of fact all objections urged against federal system are baseless. Where-

ever there exist different peoples, and provinces all inspired by mutual distrust and suspicion, there the establishment of the federal system has been found to be very effective in paving the way of mutual understanding and goodwill and thus finally developing the sense of nationality in the country. It also prepares the minds of the people to later on make their government more centralised if there arise a need for it. If on the other hand the conditions of a country require the setting up of a federal system, but it is saddled with a unitary form of government instead then such an arrangement is sure to end in chaos and confusion making the existing differences all the more acute and menacing. We can well profit by the following wise remarks made by Mr. James Beck, Solicitor-General of the U. S. A. with regard to his own country. "In a country that extends from the Atlantic to the Pacific, and from the Lakes to the Gulf, whose northern border is not very far from the Arctic circle, and whose southern border is not many degrees from the Equator, there are such differences in the habits, conventions and ideals of the people that without this dual form of government the constitution would long



since have broken down." (The constitution of the United States, p. 127.) The differences in India are much more accentuated and on a much larger scale than in the U. S. A. hence a unitary government here is doubly sure of breeding nothing but strife and bloodshed. Far from bringing about the desired national consciousness it will end in ruin and destruction.

### **Advantage of the Federal System.**

Besides the differences of language, custom, civilization and religion it must also be borne in mind that in order to attain real unity India cannot even on other grounds do without the Federal form of Government, for one-third of its area is included in the Native States without whose active co-operation in matters having an all-India aspect the country cannot make any real advance. Unless the principle of federation is accepted it is evident that these semi-independent Native States will never agree to merge their individuality in greater India.

The second advantage of federation arises from the fact that India is a very vast country,

almost a sub-continent, being inhabited by a various peoples having different temperaments owing to a diversity of climates, and in case of federation each province will of necessity legislate in accordance with its own specific needs. The result will be that in a short while a number of political experiments will be undertaken everywhere and the Federal Government will benefit by these experiments ; and will be afforded such an opportunity to develop and perfect its constitution as perhaps has never been afforded to any other country of the world.

### **Divisions of Federal India.**

Now I take up the question as to what parts of India would become members of the Federation and on what principle. In this connection I pass over the question of the Native States which needs separate dealings. Here I would confine myself to British India only. At present India is divided into nine governor-provinces with legislatures etc. and a few non-governor territories. Now the question is how to include all these parts into a federation for it is against the accepted principle

of federation that certain members of it should be under the direct control of the Central Government. If we permit such a state of things that would mean that we are having a defective federation where unitary and federal systems are both mixed up for where there is no local autonomous government the Federal Assembly will function as the local government while in respect of others it will act as a purely federal body. Again according to the Simon Commission the method of representation in the Federal Assembly will also be different for whereas the autonomous provinces will send their representatives through direct election, the representatives of the so-called backward parts will be nominated by the Governor-General. Now all this is quite unconstitutional and a prolific source of conflict and friction. Federation must be uniform and general excepting where a government decides to have a sort of separate enclave in the form of a town where people may settle with the distinct knowledge and understanding that they shall enjoy no right pertaining to local government and excepting also such dependencies as are no part of the Federal Government but merely a

possession thereof as are the Phillippine Islands in the case of U. S. A. Excepting the above two cases no part of a real Federal Government can be deprived of its autonomous character, for it is not only a grievous wrong to that part itself, but so far as such parts are concerned it also reduces a Federal Assembly to the status of mere local council which is against the principles of federation. Real federation implies a whole consisting of parts all equally enjoying complete provincial autonomy. Therefore as long as the present distinction of governor and non-governor provinces is not done away with federation cannot be started on the right lines. It is not a question of mere practical facility but it is a matter of basic principle, and in that respect it deserves greater attention than the Commissioners have paid to it.

The Simon Report says that with the exception of the governor-provinces and the N.-W. F.P. all other provinces should continue as they are. To even the N. W. F. P. they propose to give only a sort of semi-autonomous status. Now if this recommendation of theirs be given

effect to it will mean that India will never be able to develop upon the right federal lines. It is indeed queer that inspite of admitting the defective nature of the present constitution of these provinces the Commissioners propose its retention. Almost every governor-province has a backward tract or tracts attached to it which means that in all the provinces the governors will be invested with dual powers. Then there are the small separate territories where there is no constitution at all and which are directly under the supervision of the Central Government. Thus it is apparent that under the present circumstances no one uniform constitution can be devised for the whole of India and it is time that this question were settled once for all.

I would take up the backward territories first. It is alleged that owing to their backwardness in education, the inhabitants of these districts are not able to participate in politics. But the question naturally arises, what has the Government done for them up till now? Whatever the degree of their degradation no one will admit that during a century of the British rule no useful change could have been effected

in them. Of course they could not be supposed to have become able to compete on terms of equality with the civilised nations of the world which have a start of hundreds of years over them but certainly they ought to have shown some progress. Unfortunately however they are still practically the same as were their forefathers generations ago. It seems that the local officers have remained too much engrossed in their own environments of civilization and the higher officials have never checked their work as to the efforts they ought to have made for the educational and social uplift of their charges. Again the desire to rule is also a human trait and so naturally these officers must have thought that if these low-fallen people are educated and become socially advanced they would not be able to enjoy the same powers over them as they now do, otherwise it is unbelievable that such a strong and resourceful Government, as the British Government is, should have failed in its objective if it had applied itself heart and soul to the carrying out of such a reform. I can venture to say that if the Government hand over any of these tracts to our keeping for a period of 20 or 25 years, we can work out at least this

much change in its people that they may become able to fairly pull on with the other inhabitants of India. In short in my opinion the backwardness of these people is due to nothing but to the fact that they have been branded as backward and then left to themselves. As long as the Punjab was a non-regulation Province it was behind all other provinces even after Britain had ruled over it for more than fifty years, but ten years of constitutional Government have worked a wonderful change in it. It is no longer behind other provinces; in education and literacy it has already left many of them behind, while in material prosperity it is making long strides and fairly competes with others. Hence the sole remedy for this backwardness of certain tracts is the amalgamation of these tracts with the other provinces. If their areas had been large and extensive I would have hesitated to recommend this course, for, whatever the cause of their backwardness, there is little justification for handicapping the other provinces on their account. But the fact is that they are small-sized tracts that can easily be added to the provinces enjoying statutory rights and the provincial governments

will of necessity and for their own good provide means for their advance and progress. If any special reservation be considered necessary that can be effected by the insertion of a provision to appoint exclusive educational or industrial inspecting officers for them and to set apart separate funds for their requirements for some time to come. In a few years time, which I believe cannot exceed fifteen, they will begin to show signs of distinct improvement. To keep them apart, is to introduce an element of weakness in the constitution.

The Andamans are held out as an instance of a backward tract about which it is said that they could not make any progress owing to their being treated as a penal settlement for life prisoners. Though the law relating to this penal settlement has now been abolished, yet the view expressed was never sound. Improvement could be effected in the condition of the Islands even in presence of the prisoners who were confined only to a part of the territory, while a greater portion of it was quite free. I believe the reason of their backwardness lies only in the fact that the Madras Government being pre-occupied with



its nearer affairs did not feel inclined to stir itself in that behalf, with the result that this portion of God's creation was left immersed in darkness for a period of 150 years, which whatever the reason is an unpardonable wrong. It is time that the people of these Islands have conceded their due rights. They may not be to-day able to use their rights properly but they would not fail to use them rightly to-morrow. There exists no country in the world where constitutional rights have been equally and uniformly utilised by all the people at one and the same time. Our duty is to throw open the doors of progress to all, but evidently these opportunities will be utilised by the people according to their individual capacities. Opportunities will also create in the people the desire to avail of them. If in the case of any territory there exists some special danger safeguards may be provided.

Now I take up the individual cases of those smaller provinces or territories that are still denied constitutional rights. The first of them is the province of Delhi. The Commissioners have recommended that in Delhi the present state of affairs should continue, which is this

that the legislation passed by the Punjab Council for the Punjab is enforced in the Delhi province by the Viceroy by publishing a special Ordinance to that effect. The second is the Coorg with a population of 136,000 and comprising an area of 1580 sq. miles. The British resident in the native State of Mysore is its ex-officio Chief Commissioner with a tiny Legislative Council whose president is the same Chief Commissioner. So far only two bills have been passed by this council, and six days on an average in a year does it meet. The Simon Report recommends no change even here. The third tract is the British Baluchistan, which is under a Chief Commissioner who administers it with the help of a *Jirga* (a sort of informal advisory council) while in respect to the native states in this territory he acts as Agent to the Governor-General. Owing to the special habits and character of the inhabitants the Commission does not recommend any change for this province also. The area of this province is 134,338 square miles with a population of about a million. Half of this population is under the native states while the British area comprises about 10,000 square miles, to which may be added another 40,000 square miles which

is under perpetual lease to the British. The fourth such tract is that of Ajmere-Marwara which is surrounded by the native states on all sides. Owing to its detached nature the Commission makes no recommendation for a change in it. Its population is more than half a million with an area of 2,711 square miles.

The present arrangement is that the Agent to the Governor-General for the Rajputana States is also the ex-officio Chief Commissioner of this territory. The fifth region under this category is the N. W. F. P., which contains about 4 million souls with an area of about 40,000 square miles. The present arrangement is this that there is a Chief Commissioner here who acts under the Governor-General through the Foreign Office, and special laws are in force here which the Governor-General promulgates by special ordinances. These are the five regions that, in addition to the tracts called 'backward', are at present deprived of the statutory rights. I do not see any reason why this deprivation should continue any more. I think, Coorg can be easily made over to the Madras administration. The plea

advanced by the Commission that in race and religion the Coorgs differ from the Madrassis is no reason, for, this difference is in evidence all over India. All that we should see in such cases is that no tract is made over to another administration that is geographically and historically different from the other and the transference of which will detrimentally affect it or which possesses the qualification to be formed into a separate and independent province. None of these conditions bear on Coorg and therefore there is no reason why the anomaly should not be removed by turning Coorg into a part of the Madras province. As to religion or language, some such safeguards as are accorded to the minorities elsewhere can be provided. For instance, it may be laid down that primary education shall be conducted through the medium of the Vernacular and that the people of the locality shall enjoy their fair share of the services. In short, the Coorgs should be brought under the Madras administration with due safeguard of their rights.

Similarly, Ajmere-Marwara can be joined to U. P. though the two are separated by the

Native States territory, for, linguistically and as far as usage and custom are concerned they are quite similar. There is only the question of the territorial gap which is not insurmountable for there are several tracts in the U. P. that similarly outlie it.

Even here certain local needs can be provided for. For instance, the post of a judicial commissioner for Ajmere-Marwara may be created. But the Governor and the Council must be the same as for the U.P.

The third tract is Baluchistan. This territory is indeed small in respect of population and revenue, but it is sufficiently large in respect of area; for even the purely British part of Baluchistan comprises an area of 10,000 square miles, but it can be increased considerably if the agency tracts which are also under direct British administration be included in it. The whole in that case would come up to 53,000 square miles, *i.e.* to  $\frac{2}{3}$  of the size of Behar and Orissa and a little short of Assam. Owing to this vastness of extent it deserves to be turned into a separate province, and it is to be hoped

that owing to this change a marked increase will be effected both in population and revenue, for, owing to its present unconstitutional state people are shy of settling there, while the treatment that is meted out at present to the new comer is an absolute damper for the emigrants from the outside. As soon as it is given a constitutional status, people from the P'unjab and Sindh are sure to flock over there to find new avenue of wealth and progress. That the revenue is small should not stand in the way of this change, as even now the Imperial Government is spending on it, and if it continues to do so for some years longer, the revenue of this province will automatically increase, and the province will add to the dignity and prosperity of India itself. If my proposal be in some way unfeasible then I would suggest its inclusion either in the N. W. F. P (in which case the whole Frontier will be administered under one system of Government) or in Sindh which it resembles in many respects ethnologically as well as linguistically, while the same railway line connects them both and the means of communications and water-ways are inter-connected. As for the states, they should be controlled by the political department as before.

As regards Delhi, I would say that if it is to be maintained as a separate province, it should be given an independent status and the best means to that end would be to add to its size by annexing a district or so both from the Punjab and the U. P. And as Delhi being the capital of India is making rapid strides on all sides, I am sure it will be able to produce sufficient income to meet its administration charges. As most of its expenses will be due to its being the Imperial Province, the Government should have no hesitation to meet its expenses from the Imperial sources. But if in some way this proposal does not appeal to the authorities, even then I would urge the raising of it into a separate self-governing province. If the Swiss Cantons can enjoy self-government, in spite of their being much smaller than the Delhi principality, why not the latter have the status of a self-governing province.

Now there is left the question of the N.W.F. Province which I believe deserves representative government just in the same way as do the other provinces. The Commission by means of a queer analogy have tried to deprive it of

its legitimate rights. They say that a man in a powder-magazine cannot enjoy smoking on the plea that he is entitled to a perfect freedom of action. Similarly, they argue, the position of the Frontier Province is such that it cannot be given the same rights and power as the other provinces. In the first place the comparison does not hold good in the present case. The man who goes into a powder-magazine goes there of his own accord. But in the present case you turn another man's house into a powder-magazine. What right have you to put powder bags into another man's house and then to demand of him not to ignite fire lest your gunpowder should explode. The people of the Frontier will say in reply? "This state of things is of your own creation. Give us independence and then see whether we can put our house in order or not. In the second place it must be remembered that the unrest in the Frontier Province is mainly due to the denial of its due rights. The frontier man knows that his neighbour, his own kith and kin, across the Durand line a few leagues off is absolutely free, while his countrymen on the Punjab side to enjoy all the constitutional rights, but he, in spite of his being



better educated and further advanced than his northern brother, and being no whit inferior to his southern brother as far as education and general intelligence are concerned is deemed unfit to manage the affairs of his house. It follows naturally that he is constantly urging upon his brothers of the tribal territory to constantly create trouble on his behalf. The result is what we daily witness. Sympathy for their brethren leads these turbulent people to vex the British officials in diverse ways. If a wave of freedom can surge in the minds of those far removed from the lands of liberty and having no racial affinity with any independent people, why should the next-door neighbours of independent peoples who linguistically, religiously as well as ethnologically are the same, and who are constantly inter-marrying and have a daily business intercourse and contacts should remain unaffected by that spirit of self-determination which is in the air? To deprive them of their due rights and then expect them to refrain from lighting a match near the powder magazine which is not of their own creating, rather having been forced upon them, is

highly illogical. On the contrary, they would simply light the match in order to explode away the gunpowder so that the way of freedom might possibly be opened to them. The conclusion at which the Commission has arrived concerning the Frontier Province is queer. Nations elsewhere try to please their frontier people by conferring upon them more than their due rights, so that they may serve as a shield for their country, but here the Commission proposes to deprive the frontier people even of their due rights because they are *wardens of the marches*. That is highly impolitic, and this deprivation will ever rankle as a thorn in the side of these people who are yearning for freedom, and they will not cease from agitating and causing as much unrest as possible, unless their due rights are conceded to them. Great Britain being an island has no frontier, but haven't we got other nations that have frontiers running parallel with other nations? Are the frontier people deprived there of their due civic rights?

Even a child can understand that the best way to strengthen the frontier is to

create in the people there a sense of security and responsibility by restoring to them their due rights. Let them feel it was their country and they would respond to all calls for defence, since they would be defending their own rights. Who can brook interference with his own freedom? Every outside invader they will regard as intruder to be dealt with according to his desert, provided they are made to feel that the province is their own home. If they once become aware of the fact that they cannot have their due rights, there will be no end to their attempts against the British rule, until they are as free as their brethren across the border. But give them their due rights and see how loyally and faithfully they keep the door against all invaders.

In fact, the independent tribes across the border will cease from molesting the British administration, as soon as internal freedom is conceded to the Frontier Province, because these tribes have now become as deeply connected with the Pathans of the British territory by the ties of marriage, relationship

and business, that if they ever think of raiding the British territory, they will have to sever all these ties of blood and relations, business and religion, and bad blood will be created between them and the people of Bannu, Kohat and Peshawar, if once the latter are pacified and contented. That will, I believe, put a stop to their raids, and for their livelihood they will have to look for other means of subsistence. That means they will by and by have to take to civilised professions of trade or business or industry.

I may just add at the end that even the Commissioners admit that the present arrangement for these smaller units is only temporary, but they have not realised that at least in the case of the Coorg as well as Ajmere-Marwara the difficulties of transferring them to other provinces are of a permanent character. Neither is there any chance for the Coorg people to change their religion or language nor in the case of Ajmere-Marwara is there any possibility of the distance being bridged. What benefit is there then in not settling their cases once for all. Only those cases could be put off

where there is a possibility of the conditions undergoing a change. But if the political circumstances are to remain the same, there seems no reason not to make a final decision now. Either they should be admitted into some of the other provinces, or it should be declared that Indian's federation shall never be consolidated owing to these few smaller provinces.

Similarly, with regard to provinces that are to continue as separate entities, it must be settled now that they shall get self-government, for, without that federation can never be strengthened. I must say here that by a responsible government, I do not mean that every province must be stereotyped in the same way. For instance, it sounds quite unreasonable to me that even the matter of salaries of ministers be decided by England. If even such petty questions are to be settled by the Home Government, what does the grant of responsible government to India mean? The true procedure shall be that the measure of self-government which India and its people are to enjoy now must be laid down clearly leaving it for every provincial legislature to determine for itself its particular

form of organisation, and this is the true objective of the federal system of government. If this object is not realised, then the federation itself will be based on a weak foundation. The internal organisations of various states in the American Union as well as Switzerland differ in certain respects quite radically, but their federation does not suffer on that account. The same privilege should be accorded to India. If the Punjab decides in favour of Rs. 3,000 as its ministers' salary as opposed to Bengal's Rs. 6,000, what has England to do with it? It is a matter of internal economy. Similarly, if they propose and adopt different ways of elections without infringing upon the rights of any individual class or community, England has got nothing to do with it. If the various provinces differ as to the method of selection of their ministers, let them do it. If one leaves it to the elected councils to do the choosing, let it do by all means. If the councils are disposed to make the terms of the ministry *coeval* with the council term or if the stability of the ministry is to be wholly at the will of the council we should have no concern with them. It neither weakens the Government nor does it

affect the federation. In short, there are scores of different organisations which governments have found out practically useful in their respective countries, and they can all be tried with success in India. All that is needed is that the rights reserved to the Throne, or conceded to the Central Government, or the various safeguards in behalf of the minorities are to be scrupulously adhered to, which on no account are to suffer or be ignored. With these reservations every province should be free to choose its own form of government. Admitting this principle the smaller provinces will not find it difficult to manage their own affairs. If Switzerland pays only one thousand pounds annually to its ministers without detriment to the administration, where is the harm, if Baluchistan or N. W. F. Provinces should revert to smaller emoluments of their ministers. After all Afghanistan the next-door neighbour to the Frontier Province pays comparatively much smaller salaries, yet we do not call its administration defective on that account. If there are defects they are due to other reasons. The present form of administration which is carried on uniformly in all the British Provinces in India can be

modified according to the needs of the various provinces and thus both the work and the expenses can be reduced, and every province can easily live within its own means. There is a saying in our country that we should extend our limbs according to the extent of our sheets.

In short, for the successful running of the Indian Federation, it is necessary to make a final settlement about the whole of British India, otherwise a sort of duality will continue, not only in the centre but in the provinces, too, investing a part with responsible government, while retaining an unconstitutional form of government for the other. Nay, the Central Government will be reduced to a form of unequal triumvirate, the responsible, the irresponsible as well as the provincial (for, with regard to a smaller province, it will occupy the position of a provincial government). If this question is left unsettled, the Round Table Conference would have committed a great mistake, which is sure to produce a crop of fresh misfortunes and troubles in the future.

Now I take the question of those provinces that have received their first instal-



ment of the reforms. They fall into two categories, firstly those that like to fall out of India, as Burma ; and secondly those that want to split into two or more parts, such as Sindh, Orissa, Carnatic, etc. Burma is the only province which demands complete independence of India and I believe the claim to be very reasonable. It has never been a part of India in the sense of the word. It is quite distinct from India historically, geographically, ethnologically, linguistically, economically and socially. In practice, it has remained aloof from India to this day. Accordingly we find that although in the offices of the Indian Government we have all the provinces represented yet there are almost no Burmese there. The reason of this lies in the fact that they have always regarded India as a separate country and consider it to be a sort of banishment for them to come to its centre even to secure their rights. Hence, to force this province to remain within the Indian orbit, shackling it with Indian forms and services is to keep it in perpetual bondage, for it has ever remained aloof from India and maintained its individual identity in every sphere of life as well as in administration.

Burma is more conspicuous in her difference with India even than Ceylon. So if Ceylon can enjoy a separate existence under the Crown, there is no reason why Burma should not.

The second question pertains to the partition or splitting up of the existing provinces. Since the inauguration of the Reforms, some parts of the country have been demanding to be constituted into separate provinces. They are as follows:—Sindh, Orissa, Carnatic, Krilla, Andhra. The Nehru Report reported in favour of the separation of Carnatic and Sindh, while the Simon Report is in favour of the separation of Sindh and Orissa. I believe that all the three provinces mentioned above deserve to be created into separate provinces forthwith, so that the apportionment of India into provinces should be settled once for all. The remaining two divisions are small and unimportant. To constitute the afore-mentioned three regions into separate provinces would mean the curtailment of the provinces of Bombay, Madras, Bengal, and Orissa. But the last mentioned two provinces are sufficiently populated and they will suffer no material loss at least so far

as population is concerned. As their population is large, their revenue strength would be quite unimpaired, and their sources being very extensive they can easily recoup any temporary loss. As regards Madras, it is already very extensive and also sufficiently populated, so the slicing off of the Carnatic from it will cause no harm. Moreover, if Coorg is added to Madras, the loss of territory caused by the separation of Carnatic will be to some extent compensated. Bombay, of course, will suffer a good deal in area if Sindh be excluded from it, but even then one hundred and forty thousand square miles with a population of 23 millions are left to it which brings it nearly to the level of the Punjab in population as well as in area; and so the people of the province need not feel any apprehension about the matter.

Of all these regions the claims of Sindh are not only very cogent and strong, but they are very urgent and pressing. It had no affinity with Bombay whatever. In history or geography, in language or custom or habits climatically or in dress they have been utterly different. It was never attached to Bombay

or to any part of it. In fact, in the olden days it was considered to be outside of India and it was only for a short period before the Muslim invasion of India that it was ruled over by the Indian princes. Hence it is absolutely wrong to keep it linked with Bombay, to which it bears no affinity or resemblance, in face of the opposition of the people of Sindh.

It is said that financially it cannot be self-supporting. The Nehru and the Simon Report have both raised this objection, which, however, does not seem to be well founded. If Assam can be self-supporting, why not Sindh which is situated at the confluence of all the Punjab rivers with the addition of the mighty Indus, and which has a port like Karachi. The fact is that the financial weakness of Sindh is due to its unhealthy dependence upon Bombay. It has lagged behind because it was never allowed to stand on its own legs as is well borne out by the remarks of the English as well as the Indian officials and non-officials who have given this subject a deep thought. There is a rivalry between Karachi and Bombay, that is why the latter has been trying to put obstacles in the way of its

expansion. Very little attention has been paid to the colonisation of Sindh or providing it with good roads or railway lines, and very little has been done to popularise education. Until facilities are provided for the advancement of a province how can we expect it to make any headway? As soon as it is released of the strings that keep it tied to Bombay, it is sure to advance by leaps and bounds. Particularly in view of the opening up of the canals under construction and the Sukkur barrage scheme. At the beginning the Indian Government can advance a loan for the temporary running of the administration to be set up after its separation from Bombay. Moreover, the administration can be so managed as to need very little expansion on the expenditure, despite its being constituted into an independent and separate province. To effect this the salaries and emoluments of the governor and the ministers can be fixed at an economic rate, the number of the ministers and councillors kept down, while the need of a separate High Court be dispensed with for some time, the courts being affiliated either to the Bombay or the Lahore High Court and the

question of creating a Sindh University be held over for a number of years. In short, by effecting this and similar other economies, the province can easily be made self-supporting. As to the debts which the Bombay Government has incurred on account of the Sukkur barrage scheme, they can be paid by the selling off of Government lands as soon as the canals are in full working order.

In my opinion the point of greatest importance, which must be borne in mind when deciding this question, is the feelings of Muslims as a community. They suspect that wherever they are in the majority, they are either affiliated to a non-Muslim province or otherwise deprived of their due rights. The Bengal, Punjab, N. W.F.P., Sindh, and Baluchistan are glaring instances of that injustice. As for the Punjab, it was only recently that it got its rights. Similarly, Bengal was unjustly kept as a Hindu province for a long time. In spite of the fact that by the Government of India Act of 1833 it was decided to create a new province of Agra, and the understanding was that Behar would be detached from Bengal and joined to it the

latter continued hanging like a mill-stone on Muslim Bengal. And at last it was Lord Curzon, who separated Eastern Bengal in 1905 and thus opened an avenue for the progress of the Muslims. This act of Lord Curzon and his sympathetic attitude towards Muslims in general will ever be remembered with gratitude, especially by those who have made a deep study of history. He was, however, so much criticised that the partition effected by him had to be repealed by the King-Emperor at the Delhi Durbar. But despite the annulment of Bengal partition, Lord Curzon's objective was achieved by the separation of Behar and Orissa from Bengal and their creation into a new province which restored the Muslim majority in Bengal. In a word the Muslims have reasons to nurse the grievance that the Muslim provinces are deprived of their due rights on some pretext or other. Hence the true policy should be to remove this long standing and just grievance of the Muslims and thus to curtail, as far as possible, all causes of troubles and disturbances. In short, whatever regions are still outside the statutory provinces must some how or other be amalgamated or given separate statuses and

that no part of the country should enjoy preferential treatment in the matter of constitutional rights so that the Federation may get a fair start without any let or hindrance, and that Baluchistan and N. W. F. P. should be given equality of status, central representation, and the right of self-determination, though different in shape, so that ways and means being available in the constitution, they can gradually work out their own destiny within the Indian Federation. Sindh should be separated from Bombay forthwith and made into a statutory province with well defined constitution of its own. Carnatic and Orissa, too, should be split up into separate provinces. In this way we shall have fourteen provinces if we include Delhi also as an independent unit. But if the latter is annexed to some other province, then we shall be left with thirteen provinces, five of which can be called Muslim provinces in the sense that they contained in them Muslim majorities and the rest Hindu.



## CHAPTER III.

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### Provincial Governments.

As the Simon Commission have favoured the continuance of the present system of administration, they have discussed the subject of provincial government in two separate parts. In one part they deal with the Governor's Provinces and in the other with territories under the Chief Commissioners. But as in my opinion the very principle of this discrimination is wrong and opposed to the accepted principles of federation, which consists in a whole composed of free and equally autonomous parts and receiving all its power from its components, therefore in the preceding Chapter I have discussed how all the parts of the country can be brought up on the same level, by either amalgamating the non-governor provinces with provinces under the governors or by making them separate Governor-provinces themselves. That is why I have headed this chapter as *Provincial Governments* instead of the Governors' provinces. And first I take up the question of the Executive.

### *PROVINCIAL EXECUTIVES.*

*Dyarchy*:—After discussing the various schemes and proposals the Simon Commission have reported against

the dyarchy. Though the objection raised against dyarchy affect only the form which dyarchy has been given in India and do not affect its principle, yet I would agree that the time has come when dyarchy should be abolished in India. I remember I was the first man to recommend a dyarchical form of Government in the memorial submitted by the Ahmadiyya Community to the late Mr. Montague and my recommendation was based on the principle that whatever subjects are transferred to the charge of ministers should be transferred fully and completely, and whatever are reserved should be reserved fully and completely. At Delhi where the Ahmadiyya Deputation waited upon Mr. Montague, he seemed to be impressed by this proposal, but later on, at Calcutta where was Mr. Montague presented with another scheme that had been prepared under the influence of Mr. Curtis and which embodied the same principle in a different form and at the same time Mr. Curtis's scheme being more worked out, the former became inclined to this latter scheme. When the Montford Report was received, Sir Michael O'Dwyer who was the administrative head of the Punjab in those days, sent me a copy of the same for an expression of opinion. In compliance with this I submitted a detailed criticism of the Montford scheme and stressed the harmful nature of the proposal saying that it would be productive of more ill than good. It was better, I said,

that the Indians were given full control in a fewer departments than half control in more, while, in the case of those departments, where they had no control, the members of the legislature though permitted individually to express their opinions, the legislature as a body should not be empowered to pass resolutions, for it is against human nature to stop short when it has been permitted to proceed a good way, and if one is forced to do so, dissatisfaction and heart burning must follow. But little attention was paid to my views at the time. I suppose they would have received better attention if they had proceeded from a professional politician, rather than from the religious head of community. I am not glad that my forebodings have come out to be true. The dangers which I foresaw are now in evidence, and there is a wave of unrest sweeping over the whole country. I therefore hold as I have ever held that the form of dyarchy introduced into India was defective. Had dyarchy been given the other form which I recommended it would have succeeded. But now when this system of Government has been experimented, there is no use of making a new experiment in the same line. Moreover the conditions have radically changed during the last twelve years and it is time now that a forward step were taken. I am therefore forced to endorse the Commission's recommendation in favour of the abolition of dyarchy, though I also

apprehend dangers in the scheme put forward by them. As to my own proposal, whether it displeases my Indian friends or is disliked by the English, I will submit it later on, though in view of the fact that in certain matters both the parties have made up their minds, there is a possibility of my voice proving to be a cry in the wilderness.

*Governors:—*Every province whether old or new including the ones to be created now should have a governor. But the existing system of appointing governors should be abolished, at present all governors excepting those of Madras, Bombay and Bengal are chosen from men of the Indian Civil Service, the first three *i. e.* the presidency governors being chosen from the public men in England. Both the systems have their good as well as bad points. But to discriminate between the provinces is unnatural and meaningless. There is absolutely no reason to believe that whereas for Bengal a public man from England is necessary and useful, for Behar and Orissa, its next-door neighbour, a member of the I.C.S. is required. There should have been only one system and that should have been applied to all. Either the choice should have been confined to the public men of England in all cases or all governors should have been selected from the I.C.S. or there should have been no fixed system in any case leaving the door

open for the selection of the best man wherever available. But the present procedure is based upon no principle. Under the recommendations of the Simon Commission the present system must needs be changed. The Commission recommend the abolition of dyarchy and the consequent distinction between a member of the Executive Council and a minister. As a result of this the services so far as the question of subordination is concerned will wholly come under the ministers, whereas now the ministers exercise very little authority over them. Similarly the Commission recommend that the governor should be empowered to choose, if he so prefers, all his ministers from the elected representatives of the people, which means that it is possible if not probable that in the near future all civil servants will wholly come under the ministers, for all the executive portfolios will be in their hands. Now if the present procedure as to the choice of governors continues, and outside of the three presidencies the governor would be selected from I. C. S., then we shall be face to face with the anomaly of a civil servant, an erstwhile subordinate to a minister, becoming his head when appointed as governor never be conducive to good government. Under the present system every civil servant is a potential governor, but at the same time under the existing administration he is not directly subordinate to the minister, therefore the anomaly

referred to above does not arise. Owing to this serious defect the ministers will never learn to follow a bold line of their own. Neither will the civil servants cultivate a spirit of obedience to the ministers with the result that administration will go on becoming loose and loose every day. Hence if dyarchy is to be abolished it should at the same time be laid down that in future governors will be appointed direct from Home from among the public men of Great Britain. To this proposal objection is often raised that door to advancement being closed for the civil servants, able persons would hesitate to join the service. But this objection is untenable, since despite the fact that in the three presidencies governors have ever been selected from the public men in England, there has been no dearth of good civil servants there. Admitting however that this is a real danger a remedy may be effected by opening the door to such retired civil servants as have spent at least five years outside India after their retirement. This will do away with both the above mentioned anomaly and objection. It will also help to strengthen the position of the governor by securing to him in addition to experience of Indian affairs these advantages that pertain to the system of direct appointment of governors from Great Britain.

*Cabinet* :— The Commissioners report in favour of (1) the collective ministerial responsibility to the

legislature, (2) all members of government to be called ministers, thus doing away with the present distinction of a member from a minister, (3) the choice of a minister to be unrestricted, it being at the option of the governor to choose any one whether elected, nominated, official or non-official, (4) vote of no-confidence to be moved against the ministry as a whole and not against this or that minister individually, (5) the appointment of deputy ministers to expedite work and in case of acute religious differences to guard against undue severity or trampling of rights. The advantage in the above suggestions has been stated to be that they will give the ministry an element of stability also enabling it to work more efficiently. Moreover it is alleged that as in this system the scope of choice would be wider, the Cabinet will consist of more capable workers. In my opinion the recommendation pertaining to the appointment of deputy ministers is a wise one, but why it should be brought on the statute book I have not been able to understand. This is a matter which pertains to the provincial councils and should be left to them. All that the constitution should lay down is that immediately on the coming into being of the new council, the governor should entrust some one with the formation of the ministry and this person should in the very first sitting of the council and after the election of the president state his needs and require-

ments and get the number of ministers, and deputy ministers sanctioned by the council. In this way every province will be free to have the number of ministers according to its needs. It does not at all look reasonable that a few persons sitting in England should decide about such matters as relate to the minute details of the requirements of the provinces. Neither do I think that the governors should be entrusted with that work, for it pertains to the councils to chalk out the programme of their work and decide as to the number of persons required to do that work. Similarly it should rest with the councils to fix the salary of the ministers etc. But the salary should be based upon the ministerial office and not upon the personality of its incumbent so that the question of salary may not arise at every new appointment. It should also be laid down that if a civil servant holding a higher pay is appointed to the ministership, his pay will not suffer on that account.

As to the other points mentioned in recommendation of the Commission I wish to say that though looking quite common place and ordinary they are likely to prove injurious to the development and political evolution of the provinces, for they are calculated to weaken the party system. For instance, everybody knows that the main object of the party system is that members sacrifice their minor differences of opinion



so that with the help of their party they may carry out their accepted programme in the country. This is brought about by attempting to concentrate on the acquisition of the executive control through a concerted effort of the party. Now if in the Cabinet could be included non-party men who have no sympathy with the party programme, the very end of the party system would be defeated, for in such a case every sensible man would remain detached from all parties, so that he may in all matters maintain independence of opinion without being required to sacrifice some of his personal views in the interest of any common policy which must needs remain unpursued by the inclusion of non-party men in the Cabinet.

Again if a civil servant be eligible for minister-ship there would be at least this in favour of his appointment that he is an expert, and that he cannot otherwise find his way into the council. But in case of a non-official to whom it is open to try for an entry into the council through election, yet he does not care to trouble himself with that, what justification have we to put him directly in charge of a portfolio? That would be tantamount to purposely setting at naught the system on which the very existence of the council depends.

As to the governor's being empowered to put a civil servant in the Cabinet, I am personally in favour

of it, for in my opinion the time has not yet arrived when we can wholly divest ourselves of the English official's advice. But that the governor should himself do the choosing of ministers is opposed to the principle of collective cabinet responsibility which the Commissioners are anxious to introduce. How can a cabinet be forced to join in a collective responsibility with an outsider that has been imposed upon it without its consent. We can undertake the responsibility of working with a man whom we know to be an acceptable colleague, but it is hard to share responsibility with a person that is forced upon us by somebody else. All over the world wherever this principle of collective responsibility is admitted it is the Prime Minister who selects the various ministers. Wherever, on the contrary, the choice lies with another person, the members of the cabinet do of course try to pull on together but in such cases responsibility is never collective, that is to say, it never happens that if the work of a certain minister is disapproved all tender their resignations. Both in England and France where collective cabinet responsibility is admitted in principle, it is the Prime Minister who chooses his colleagues, but in the U. S. A. as well as in Switzerland where this principle is not in force, it is the President in the former, and the Parliament in the latter that selects the various members of the cabinet. In the U. S. A., the President can, owing

to his personal or popular dislike, dispense with the services of one or more of his cabinet colleagues, without the others being affected. Likewise in Switzerland, a minister can be removed without imposing any obligation on the others to resign. So it is unconstitutional to expect collective responsibility where the choice of ministers rests with the governor. That can be expected only when in conformity with the principles of party system, it is the leader of the majority party who in consultation with his party picks out men of his choice from among the members of his party, or as it occasionally happens, he also includes in the cabinet certain members of another party by way of mutual understanding.

But owing to the condition at present prevailing in India, it is necessary in my opinion to avail of the services of European Civil Servants, and the practical course to effect it would be to make it incumbent for the Prime Minister during the course of the next fifteen years to choose at least one European Civil Servant as one of his colleagues. Thus the choice of the ministers would in every case lie with the Prime Minister and not with the Governor as proposed in the Simon Report. I do not mean to say that every civil servant would be bound to accept the offer made by the Prime Minister. What I mean is that the Prime Minister should persuade any civilian he prefers to

accept office. After fifteen years every provincial council should decide as to whether it should retain this system or discontinue it for the future. This decision should take effect only if it is decided by an absolute majority of the house. This arrangement would, it is hoped, promote the cause of party government and at the same time develop that sense of collective responsibility which is the essence of this system of Government. In the meantime the country shall be in a position to avail itself of the knowledge and experience of civil servants. Similarly the Prime Minister should be empowered to choose an outsider for his cabinet, provided he can arrange his return as an elected member during the following six months. If he be unsuccessful in this, he should tender his resignation. It is a mere statement of fact that the inclusion in the cabinet of European civil servants at the choice of the Prime Minister will for sometime to come be beneficial for the country, whereas appointment by the governor of ministers from among non-elected members at his own choice will be highly detrimental to the constitutional advance of the country. The Indian delegates to the Round Table Conference should, therefore, never concede to this system.

The Simon Report also stresses the right of the governor to choose his cabinet from one party or

from different parties. There is no gainsaying the fact that in constitutional governments the Governor does the choosing. But it cannot be denied at the same time that if party government is to flourish on right lines, then the Governor should not, and in fact, he does not have a free hand in the matter. The procedure followed in constitutional governments is that the Governor chooses the Prime Minister, who is then called upon to form a cabinet. The Governor can, of course, advise him as to the choice but the real work of selecting colleagues resides in the Prime Minister, for, if it were not so, there would be a crop of parties springing up every day without there being any chance for training in constitutional work which is an essential feature of the constitutional government. The Governor should therefore be bound to accept the choice of the person called upon to form a ministry and when he cannot do so he should offer the formation of ministry to some other. It is only in this way that the parties can make their influence felt, and it is only under such conditions that the governor can find himself forced to offer the first chance of forming a ministry to the leader of the majority party. Else, we shall continue to witness the strange spectacle of the Governor calling upon certain persons to enlist the support of as many members as possible, and thus make a majority of promiscuous growth which is the case now-a-days.

*Relation between Governor and Cabinet.*—The Commissioners aver that as a general rule the governor will desist from interference in the work of the ministers as far as possible. But they empower him to intervene if any of the five conditions, detailed below, arise, *i.e.* when he deems it absolutely necessary to interfere.

They are as follows :—

“ (1) In order to preserve the safety and tranquillity of the province ; or ”

“ (2) In order to prevent serious prejudice to one or more sections of the community as compared with other sections ; ”

“ (3) To secure the due fulfilment of any liability of government in respect of items of expenditure not subject to the vote of the legislature ; ”

“ (4) To secure the carrying out of any order received by the Provincial Government from the Government of India or the Secretary of State ; ”

“ (5) To carry out any duties which may be statutory on the government personally, such as duties in connection with some service questions and the responsibility for backward tracts.”  
(Vol. II p. 36).

Of the five occasions mentioned above the last three with a slight amendment are quite reasonable.

The amendment which I would suggest is that in the 4th clause the word *Government of India*, should be replaced by the word *Governor-General*, for though interference by the Governor-General is permissible on certain occasions till the time when the systems of the Central as well as the Provincial Governments become perfect and stabilised, yet in the case of the *Government of India* the provinces would be quite unwilling to concede this right, for, sooner or later an elected and responsible ministry will be invested with the duties of the Government of India, and as such a ministry may attempt to make this right a permanent one and thus open the way for interference in provincial matters and rob the provinces of their autonomy, the latter can never agree to concede this right to the Central Government. In the same way matters relating to backward tracts have been kept open for interference in the fifth clause. But as I have already indicated, this not only contradicts the basic principle of federation, but is also a practical hindrance in its development, for it creates a duality from top to bottom, which is against the principles of good government, and hence can only be allowed in very exceptional circumstances.

There are now left only the first two conditions. In my opinion it will bring about utter destruction of Government system if interference on such occas-

ions is permitted. According to the first clause, the Governor is empowered to intervene in the interest of peace and order. Now these words are so vague that a governor would be able to intervene on any occasion he likes, and the cabinet will be forced to work in accordance with the sweet will of the governor. A good governor will of course withhold himself, but a headstrong one would interfere whenever he feels inclined to do so, pleading as his excuse the cause of peace and order.

Equally dangerous is the second proviso, where intervention has been allowed when the minority interests are in great danger. We can rest assured that there will seldom be any majority ministry that would make its wrongs visible in a dangerous form. Hence the minorities would hardly benefit by this proviso, and while the Governor would silently await the arising of a dangerous situation, the minority interests will continue to be butchered in a clandestine manner. But on the other hand if there comes a Governor, who is minded to assert himself in the working of the Government, he would certainly resort to a policy of interference under this clause with the result that the vital interests of the country would suffer without the minorities benefitting much by such interference.



In my opinion in both of these conditions the Governor, instead of being empowered to overrule or interfere in the decisions of the Cabinet, should be instructed that if he sees that the ministry follows a wrongful course injuring the interests of the minorities, or issuing orders calculated to create unrest, he should first try to dissuade the Cabinet from following such a course, but if the Cabinet does not desist and the matter is important, he may force it to resign, and if no second Cabinet is willing to form, or if having been formed it insists upon the same course as its predecessor, then he can order the dissolution of the council and demand a fresh election. In this way both parties will hesitate to overstep the bounds, *i.e.* the Governor as well as the Cabinet will both be chary of going to the extremes. The latter will keep in view the hazard of being replaced in case of their unreasonable insistence on the matter, or in the last resort, of their going before the country and having their party prestige lowered or shattered, if they suffer a defeat on the score of their attitude. The Governor, too, will be careful not to insist upon his course unless he has an important backing in the country, else his insistence on his attitude will only help to make the party in power all the more popular. If despite all the precautions the wrong continues, there would be the Supreme Court which can always help the party aggrieved.

*Procedure:*—I quite concur with what the Commission say in regard to the Cabinet procedure. The proposal to appoint a Cabinet Secretary, who is to keep the Governor informed of all the proceedings has been dubbed by some as the setting up of a system of espionage. But if constitutionally the Governor is the president of the Cabinet, there is no reason why he should not be kept informed of all the details of the Cabinet business, and there is absolutely no justification for saying that the Secretary is meant to act as a spy on the Cabinet.

*Emergency Power of Governors:*—In emergencies when there is a deadlock or when there is a complete failure of the constitutional government, the Governors have been empowered by the Simon Commission to carry on the government themselves, or to appoint suitable assistants in that behalf. The emergency state they define as the failure to form or maintain a ministry with a strong backing in the council, or the refusal of the majority to do the government work or the putting obstacles in its way with a view to wrecking it. In all these cases the Governor is entitled to resume all the constitutional powers, and he can choose or appoint his own ministers and nominate them as members of the council. He is also empowered to certify the finance bill and sanction all necessary expenditures or pass a law in the interests

of public security. All he has to do is to acquaint the British Parliament, for, without its sanction no special ordinance issued by him can be effective after the end of a year. There is no doubt about the fact that in the case of utter breakdown of the Government there should be some provision to carry on the work of government, but the definition of emergency given by the Commission does not give it the extraordinary nature demanding the employment of such extra powers by the Governor.

For instance, their view that, when a ministry with a sufficient backing can not be formed or maintained, the Governor should be empowered to resume all the powers, is untenable. Such a situation is a matter of not infrequent occurrence in civilised lands but none has on that account ever thought of permitting the upsetting of the constitution and the setting up of another regime instead. In case of non-formation or non-maintenance of a secure or a willing Cabinet, the plain duty of the Governor is to dissolve the council and order a fresh election and not to hasten to resume all the powers himself. The law should therefore be that if the Cabinet resigns and no other Cabinet can be formed from among the elected members of the council, the Governor should have the power to entrust the work of Government to any individuals of his choice, and at the same time he should dissolve

the Council for a fresh election. Then, if the new Council also fails to form a Cabinet the Governor should resume the power of the Cabinet and forthwith report the situation to the Parliament. Or secondly, if, in the event of the Cabinet tendering its resignation, certain elected members of the council be willing to serve as ministers they should be called upon to form a ministry. But if the council be unwilling to co-operate with any Cabinet, the Governor should after making an appeal to all the parties dissolve the council, and when a new council is returned he should call upon the majority party or, if the majority is not agreeable, any party to form the Cabinet. If, however, even now no Cabinet is possible the Governor should dissolve the council and report to the Parliament. It is only with these restrictions and reservations that the Governor should be entrusted with any special powers in this connection, otherwise if the recommendation of the Simon Commission is accepted it would mean that with all the show of constitutional government the Commission have empowered the Governor to set up an unconstitutional government under the pretence of any emergency.

### **The Provincial Legislatures.**

One of the recommendations of the Commission is that the normal statutory life of Provincial Legisla-

terms be extended to five years; and the Governor should have power to extend the statutory life of a provincial council to a maximum of seven years to secure simultaneous general elections in all provinces. The reason assigned for recommending this change is that as in future there will be an indirect election of the members of the Federal Assembly therefore, an arrangement should be made to enable the provincial councils to elect the members of the Federal Assembly at one and the same time.

The scheme may look good on paper, but if we look into it a little carefully we shall find that it is quite unreasonable. In the first place it is wrong to think that the election of the Federal Assembly by the provincial councils would be conducive to any good. But I shall discuss this question separately.

For the time being, I confine myself to the question of the statutory life of the Provincial Legislatures. To fix the life of a legislature on the basis of unnatural laws will be productive of more harm than good. Five years should be the utmost limit. In most of the representative forms of government, the life of popular assemblies is fixed as five years or even less than that. So many changes take place during the quinquennium that the country becomes quite impatient for the next election. Take for instance the case of England herself. If a government

goes there to the country for a general election after completing its full five years tenure of office, it generally suffers a defeat. This happens in countries where representative institutions have been in existence for hundreds of years and have taken a deep root in the soil. Therefore it does not stand to reason that, in India the life of provincial councils should be extended to a lengthy period of seven years for a suppositious advantage. Moreover, when the number of provinces is increased and the legislatures are given more powers, as in other responsible governments, changes will and should take place in India much quicker. To overlook this aspect and to suppose that there would be only a few changes and that they would also take place in the last two years of the Councils' lives is a mere conjecture. Suppose changes take place in four or five provinces, in one they occur in the first year after election, in the other in the second year after election, and so on, how can then simultaneousness be secured in the Central and Provincial election? Either it shall have to be laid down that the election of all Councils should take place every five years irrespective of any intermediate election, accepting of course an election which takes place during the last year, in which case the election will hold good till the end of the next term; or there should be absolutely no time limit for the statutory life of the legislatures. Every province should be

free to hold its election whenever necessary independently of the other provinces. There is no use of a remedy which cannot cure a disease, and makes it only worse. I would also like to suggest here that the Councils should also be empowered to dissolve or prorogue themselves in just the same way as the Governors are empowered in this behalf; for it is just possible that the Governor might, at some time, withhold dissolution in his own interests, while the country might have overwhelmingly veered round in favour of a particular party. In such cases a Council should be empowered to dissolve itself by a majority vote and seek to fortify itself by a fresh election.

The Commission has been very wise in recommending that the number of voters should be considerably increased. It was a long deferred reform, but I would add that the standard of suffrage qualifications is quite arbitrary and artificial. As a matter of fact every ordinary adult person is entitled to a vote and the Government is responsible for the loss caused to a people by the imposition of any undue restrictions upon the voters. Therefore it is the duty of the Government to see that it makes due amends to the people who suffer in this respect.

During the Sikh rule preceding the British advent most of the Muslim property had unjustly

passed into the Sikh hands, while in Bengal at the coming of the British rule, the agents of the East India Company had for their own facility entrusted the lands to a few Hindu officers with the result that they became landlords, and the real owners remained only as tenants. That is why both in Bengal and the Punjab the number of Muslim voters on the score of property qualifications is very small as compared with their population strength. It is this voting weakness which is always urged against the Muslims in depriving them of the right of their due representation. The loudest to urge this against the Muslims are those who are the most vociferous in preaching democracy. It shows that they like democracy only, so long as it serves their communal ends. As a matter of fact the principle of representation according to population is so simple and reasonable that there is absolutely no question of its being a favour to one or injustice to another. Therefore, if it be considered expedient to continue for some time certain restrictions in the matter of suffrage, then some other steps must be taken to make up for the loss, which a community will have to suffer on account of this artificial arrangement, that is, such method should be devised of special representation as would secure to a community such, (not as far as possible as suggested by the Simon Commission), proportion of voters as corresponds to its population.



It must also be borne in mind that the charge that the Muslims stand in the way of joint electorates really devolves upon the Government, who by the imposition of the so called Franchise qualifications has reduced the Muslim voting strength. The Muslims oppose the joint electorates because they are afraid of going to the polls under the present arrangements. To say that the Muslims can have the Franchise extended according to the promise of the Congress, provided they assent to the system of joint electorates, only strengthens the Muslim suspicions about the Hindu designs against them. For it seems that the Hindus, while admitting the principle of extension, have deliberately withheld it to force the Muslims to bargain with them. The correct procedure, on the other hand, should have been to enforce the adult suffrage, so that on the basis of that experiment the Muslims could have a chance of framing their policy. It is apparent that with a sufficient number of experienced voters, Muslims will in time be automatically inclined towards joint electorates. But if their legitimate rights are withheld for the purpose of making a bargain, their suspicions would naturally keep on multiplying.

For a province of less than ten million population, I believe there should be at least 100 members to adequately represent it in the provincial council;

and in provinces with more than 20 millions of inhabitants the representative strength should vary from 200 to 250 members; while in the case of Bengal and U.P., where the population exceeds 40 millions, the legislative representation shall have to be raised to about 300 to give due representation to all interests.

I have already said, dealing with the recommendation of the Commission about the extension of the franchise, that if owing to practical difficulties universal adult suffrage cannot be immediately adopted, a scheme should be framed, as recommended by the Commission, by which the present number of voters would be trebled. In doing this, however, care should be taken so that the Muslim voting strength should not fall short of its proportion of population.

### **Separate Electorates and The Communal Representation.**

Now I take up the question of separate electorates. This is the most important question in the Indian politics of to-day, and round it centres the question of communal representation also. Separate electorates with representation over and above their population basis was clearly conceded to Muslims by Lord Minto, who, in reply to the Muslim Deputation

headed by His Highness the Agha Khan, spoke as follows:—

“ You point out that in many cases electoral bodies as now constituted cannot be expected to return a Muhammadan candidate, and that if by chance they did so, it could only be at the sacrifice of such a candidate's views to those of a majority opposed to his community whom he would in no way represent; and you justly claim that your position should be estimated not only on your numerical strength but in respect to the political importance of your community and the services it has rendered to the Empire. I am entirely in accord with you.....  
 ..... I am as firmly convinced as I believe you to be that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities composing the population of this continent.”  
 Herein Lord Minto conceded (1) that under the joint electorates the Muslims can neither secure their representation in accordance with their rights, nor can their true representatives be returned as members; (2) that the Muslim representation should not be determined only by their population, they should be given an additional right of representation on account of their political importance.

It was in accordance with this declaration that under the Minto-Morley Reforms certain rules and regulations were drafted to enable the Muslims to secure separate representation. These rules were enforced in 1910. Anyway, a responsible British official has publicly declared that, without separate representation, the Muslims can secure their rights neither in quantity nor in quality. In other words it means that the majority is prepared to do its utmost to deprive the minority of its due rights. So it is the Hindus, and not the Muslims, who really are responsible for all the defects that there might be in the system of separate electorates, which is evidently no favour conferred on Muslims in return of which they can be asked to make any concession or sacrifice. The system is rather a means by which Muslims can simply protect their legitimate rights.

Moreover, the Montague-Chelmsford Report has mentioned and the Simon Commission has also admitted the fact that 'in the peculiar circumstances of the country Separate Representation is a necessity. Therefore, in arriving at any conclusion it is necessary to bear in mind, that separate electorates are not needed on account of anything for which the Muslims can be held responsible; they owe their existence on the other hand only to the aggressiveness of the Hindus. It is a truth to which testimony is

borne by an eminent and responsible person like Lord Minto.

While admitting the necessity of communal electorates the Montague-Chelmsford Report declares, in the words of the Simon Report, that they "perpetuate class distinction and stereotype existing relation ; and they constitute a very serious hindrance to the development of the self-governing principle." Members of the Simon Commission also confirm the same view in these words: "If it be a prejudice to hold these views, we admit that we share them." (Vol. II., p. 56.

I am afraid neither the authors of the Montague-Chelmsford Report nor the members of the Simon Commission have given any consideration to the fact that separate and joint electorates produce different effects in different circumstances. Human mind works in very much the same manner throughout the various walks of life. Just as in cases where differences arise between husband and wife, separation is deemed necessary after making some attempts at reconciliation, and just as differences, which could not be composed when they are living together often disappear in the period of their separation, in the same way nations, when there is extreme tension between them, should be separated for a time as it would do them more good than harm. But the framers of the Montague-Chelms-

ford and Simon Schemes seem to be labouring under the impression that separate electorates are necessary only for the reason that otherwise the Muslims will get offended. As a matter of fact, under the present circumstances they are necessary for the very maintenance of peace and order in the country, and in this respect they are the only effective remedy. Joint electorates cannot bring about peace and harmony in case where a community sufficiently awakened finds, that another community which is already very strong is trying its best to put obstacles in the way of the former's advance, and does not even allow it to get its due share in the government of the country. It is easy to understand that the former will naturally feel uneasy. So the introduction of joint electorates will rather increase resentment and bitterness. When the aggrieved community finds that its rights cannot be secured through lawful means, it will surely be exasperated so as to fight and create disturbances. But if it receives its rights, it will have no cause for grievance or resentment. This is well borne out by the evidence of Mr. Chintamoni, a liberal leader and a delegate to the Round Table Conference, before the Indian Reforms Committee. Sir Muhammad Shafi says, "As was admitted by Mr. Chintamoni in his evidence before the Indian Reforms Committee, so beneficial was the effect of the resulting satisfaction of legitimate claims and of aspirations among the

United Provinces Mussalmans upon the improved harmonization of the Hindu-Muslim relations, that he and our friends of his school of thought helped to extend separate communal electorates even to local bodies in that province." ('Some Important Indian Problems' p. 89).

In contrast with this, the effect produced by joint electorates upon the Indian atmosphere is this: In the Punjab the University returns a member under the joint electorate scheme. Several elections have so far taken place, but the Muslims are so much disgusted that after making a futile attempt once, no one ever stands from that constituency. On the other hand, every possible effort is made there that a Muslim must not vote at all at the time of election. If the demand for joint electorates on the part of the Hindus were inspired by pure and sincere national motives, such disastrous results would not have been produced in a University Constituency, where every voter is required to be a graduate. This system were really a source of 'unmixed blessing' for every country irrespective of its own peculiar conditions, why should those Indian constituencies, where the system has been introduced, present sad spectacles of the worst form of communal prejudice, malice, and bitterness?

Some people are of opinion that in the case of joint electorates communal questions cannot be raised at an election, because this would alienate the sympathy of those voters who do not belong to the community of a candidate. But I think in a place, where communal bias is already present and vital non-communal questions are not at issue, only communal questions would be most likely to be raised in the case of joint electorates. If Hindu and Muslim candidates stand from their separate communal wards, there is no cause of friction between the two communities. A Hindu will be fighting against a Hindu, and a Muslim will be opposing a Muslim. But where a Hindu and a Muslim are contesting the same seat, the easiest course for both of them to enlist support of each one's community would be to make an appeal to communal bias. English people often ignore the fact that at the time of an election a candidate must have something to fall back upon. It is not an easy thing to awaken a voter's interest. Something solid and palpable should be placed before a voter as an object, for which he may shake off his lethargy and get prepared to support the candidate. In England as well as in other Western countries each party has a set policy of its own, the usefulness and excellence of which, a candidate can put before the people to enlist their sympathy and support. But in India there is at present no



political policy governing an election excepting of course a mere opposition to the British. With the attainment of self-government, however, the device of exciting the people against the Government would also automatically disappear. Which policy then would the candidates be able to put before the people? Political parties have not come into existence yet, hence there are no party programmes which a candidate might say he would support. Even the formation of parties would not help, because the government is not yet run on party lines, and the Simon Report has further closed the door to it for the future also.

Now what can a candidate pitted individually against another candidate possibly put before his constituency to win their support? Can he frame a policy alone? Or can he convince his constituency that if successful he will be able to see that his policy—if he can make one—is practically enforced? A party can no doubt inspire the electorate with the hope of carrying out its policy, because with an organised effort it can secure a majority in the election. But what promises or electoral pledges can a single individual offer? On what basis can he do so? In such circumstances all that he can do is to rely upon communal or religious differences, and these he uses as an effective means.

As separate electorates are now in operation, the contests are confined to national or at least Congress or non-Congress platforms. But if joint electorates were substituted in their place they will surely usher in an era of religious differences and conflicts. Hence, unless self-government is established in its real sense and unless instead of the Governor there is a Prime Minister to choose the ministry, party government can never flourish, nor can elections be fought on any political issues. It is only when provincial autonomy is properly established, and the people realise that laws are made not by the British officials but by an Indian ministry, that the people aggrieved by the laws will begin to come together and frame a policy of their own against the ministry in power. Common suffering will thus unite together the aggrieved Hindus, Muslims, Sikhs as well as Christians; and to preserve their unity they will themselves be anxious not to raise communal questions at the time of an elections for fear of breaking up their party.

It is then and then only that in the peculiar circumstances of India, the system of joint electorates could be safely and usefully introduced in the country. Do it earlier and you will set the whole country ablaze with communal bitterness fanning the flame; and what appears as meat to the European will act as a deadly poison in India.

Hence separate electorates should be retained not as favour to the Muslims but for the sake of the progress of India itself, and also for the sake of promoting happy relations between its inhabitants.

The question now remains that if the system of separate electorates were once introduced, it would hang on for ever like a millstone round India's neck. There should after all be some way of dispensing with this system. Muslims say that it should be abolished only at the recommendation of the minorities in whose behalf it is set up. I believe the same view is held by the Indian Government so far. But to me this appears to be not so easy of solution. The words '*in whose behalf*' are ambiguous. Who is to settle in whose favour they were set up? It is said that it would be considered that separate electorates were introduced in favour of that community for the voters of which separate registers are to be kept. They only can be supposed to be the people in whose favour the system was introduced. This definition goes a long way towards solving the difficulty but it is not effective everywhere. For instance, in the Punjab separate registers are kept both for the Muslim and Sikh voters, which means that separate electorates have been set up in the Punjab in favour of the Muslims and Sikhs. But it must be borne in mind that leaving aside Muslims and Sikhs no other religion is represented.

in the Punjab excepting Hinduism and Christianity ; and as the Christians are very few in number, the so-called general constituencies are practically Hindu constituencies, so it will not be quite wrong if they choose to say that in the Punjab the Hindus also are enjoying separate electorates no less than the Muslims and the Sikhs. At least I, for one, cannot ignore the weight of this argument. Therefore the same Hindu, who is for his own benefit now pleading for joint electorates, if he sees in the future that the Muslims will benefit by the same system, will most surely insist upon the continuation of separate electorates. How will it be possible then to abolish a system which is only a temporary measure?

A few days ago I had a talk over the subject with an eminent Muslim political leader. I asked him as to how we would be able give up separate electorates when the time comes to give them up. He replied that it would be within our rights to do so. I pointed out that the Simon Report has taken them out of our hands altogether. According to the Report Muslims of the Punjab cannot do away with ; them their discontinuance depended on the consent of all the three communities—Muslims, Sikhs, and Hindu. The Simon Report may have recommended it but, he said, Muslims would insist on laying it down as a principle that

separate electorates should be abolished only at the wish of the community in whose favour they are instituted. I asked that if at the Round Table Conference the Hindus and the Sikhs, taking advantage of that principle, insisted upon their retention in their favour also, what would be the Muslim attitude? In that case he was of opinion that the Muslims should turn round to joint electorates, and the result would be that the Hindus and the Sikhs having adopted separate electorates, the general constituencies would be left alone for the Muslims. In other words without being blamed for communalism, the Muslims would have separate electorates for all practical purposes. This being a friendly talk at tea I did not give full consideration to the point and thought that the scheme suggested by my friend was reasonable, but when afterwards I had time to think over all the aspects of the question I realised that it was quite unsatisfactory. I found that my friend had ignored the full significance of the principle that separate electorates could be given up at any time by the party for whose sake they were constituted. If the Muslims, for instance, were to adopt the attitude suggested by my friend the result would be that under the new constitution at the very second election the Hindus as well as the Sikhs,

giving up their right of separate electorates, will join the Muslims so as to make it all a system of joint electorates. There would be absolutely nothing to stop them doing it. And the result would be that the Punjab would be deprived of separate electorates before it is ready for joint electorates. As the new constitution moreover would at that time be fully established, the Muslims would not at all be able to raise this question again.

In short, that is the difficulty at least for the Punjab, and it is our duty to find its solution. A careful study of the subject has led me to the conclusion that the system of separate electorates should be introduced only for a limited number of years. After the lapse of this period the system of joint electorates should take effect automatically throughout the country. If, however, before the expiration of the period fixed, three-fourths of the elected representatives of a Community in whose favour the separate electorates were devised vote for its discontinuance and the Governor thinks that they are truly interpreting the wishes of their community, their continuance will be deemed no longer necessary in the interests of that community. The Governor can ascertain the wishes of the com-

munity in the matter by publishing the opinion of its representatives and inviting public opinion about the same.

As far as I think 25 years would be a suitable period for the continuance of separate electorates. If the communities that entertain fears concerning themselves cannot stand on their own legs even in 25 years, they do not deserve any more propping. But this period should begin with the inauguration of the new regime; any previous period should not be counted, because at that time provincial autonomy did not exist and no awakening is possible without self-government. After this period of 25 years, separate electorates wherever continued should be abolished in the case of all the minorities with more than three per cent of the population, but they must be retained in favour of those whose proportion to population comes to three per cent or less, such minorities may continue having separate representation as long as they do not of their own accord desire its abolition. Moreover, it should be expressly laid down that the total abolition of separate electorates should be effected only after the introduction of universal male adult suffrage. I would also like to draw a line of distinction between those communities

in whose favour after a period of 25 years these electorates are to be abolished. If such a community happens to be a majority in its province, total abolition without any reservation should be the rule; but if it be a minority then the proviso should be added that when joint electorates take the place of separate electorates a number of seats should be reserved for the community according to its numerical strength, or according to the fixed rights of the community whichever be greater. This reservation can only be done away with if three-fourths of that community declare in favour of its abolition subject to the conditions laid down above in the case of the abolition of separate electorates.

### **Proportion of Communal Representation.**

The question of separate electorates gives rise to the question of the proportion of communal representation. In the case of joint electorates without reservation of seats, there does not arise any question of fixing the quota of different communities. A community may return as many representatives as it can manage; no one can raise any objection. But in the case of separate electorates it is necessary to fix a proportion, therefore it would be proper to deal with this question here.



As I have already stated the Muslims have always demanded representation in proportion to their vast political importance. The Government of the country has passed to the British from the hands of the Muslims. Very considerable and important portions of India were leased to the British by the Muslim rulers, while some parts of the country were conferred upon the British as rewards. Hence, justice demands that where a rule has been thus acquired, weight should be given to the rights of the donors and lessors. Muslims have also been rendering military services out of all proportion to their numerical strength and this also deserves special consideration. I do not like to enter into the discussion as to whether the demand is justified or not, it should suffice to say that men like Lord Minto and Mr. Gokhale have admitted and recognised it.

After the declaration of Lord Minto a meeting was called at Lucknow to arrive at some understanding between the Hindus and the Muslims, where it was agreed that the Hindus would concede to the Muslims where they were in minority a greater representation than their numbers, while the Muslims would concede similar concessions in the Muslim provinces. Unfortunately the Muslims accepted this pact

at that time. I call it unfortunate because all subsequent disturbances directly resulted from this pact. Hindu politicians remind the Muslims of this pact. The British representatives also put before the Muslims this same Lucknow pact. There is no doubt in the fact that the Muslim representatives at Lucknow meant well for their co-religionists, but it turned out to be an evil. If the matter had remained confined to the Minto declaration and Mr. Gokhale and other Hindu leaders' affirmation of the same, all would have gone on well, and the Muslims would not have lost anything. But some astute Hindus, knowing that the Muslim was about to be restored his due rights, just entered into a pact to balk the latter of his intended prize. What is that pact? It is an admission by the Muslim that in the whole of India the Muslim shall not look upon anything as his own and that in no province shall he ever freely breathe. He may have gained a lot of seats but he has lost everything of value. The Simon Report too reminds him that in view of his over representation in other provinces he is not legally entitled to any majority representation in Bengal or in the Punjab.

In my opinion the Lucknow pact was a political blunder. But those who plead on that score

seems also to have forgotten that it was never confirmed and has ever been regarded as a dead letter without carrying any sanction. At any rate it is valueless at present and worthy of no attention whatsoever, and this fact is admitted by the Commissioners too who say that, "the pact is no longer regarded as accepted by either side as offering a fair basis of representations." (Vol. II. P. 71.)

But the fact is this that the pact was never accepted nor acted upon, for it was governed by an important reservation which was to the effect that if three-fourths of a minority community declare that a certain law bill or regulation etc. adversely affected their interest such a law etc shall not be passed, the sole judge in such cases being the minorities themselves.

This safeguard was never embodied into a statute. Hence when the very security, on which rested the edifice of this pact and which made the Muslims accept it, was not forthcoming; the pact became a dead letter. It is therefore absolutely wrong to base any decision on the Lucknow pact, and as the Commissioner aver, we shall have to look elsewhere for the solution of this problem.

The solution recommended by the Commission is that where the Muslims are in a

minority they should enjoy the rights that have already been conceded to them, but in Bengal and in the Punjab, where they are in the majority it would be wrong to give them representation even according to their numerical strength, for "this would give Muhammedans a fixed and unalterable majority of the general constituency seats in both provinces". (Vide Vol. 11. P. 71.)

The members of the Commission think that continuance of the present scale of weightage in the six provinces could not in the absence of a new general agreement between the communities equitably be combined with so great a departure from the existing allocation in Bengal and in the Punjab.' Then the Commissioners themselves put forth a plan, which would not deprive the Muslims of the weightage enjoyed by them in other provinces and that is that they should agree to joint electorates in Bengal and submit the question of determining the majority to the decision of the electorate. With regard to the Punjab also they are of opinion that if joint electorates are agreed to here by the Muslims, the Hindus, and the Sikhs, the Muslims would not be deprived of their weightage in the other provinces.

I could never expect that a body headed by a person of Sir John's legal eminence could advance such unreasonable proposal. The Com-

mission has overlooked many factors here. In the first place they seem to have forgotten that one is not entitled to give away a thing which is not his. The Commission says, "If by agreement separate electorates in Bengal were abandoned so that each community in that province was left to secure seats, it could gain by appeal to a combined electorate, we should not on that account seek to deprive the Muslim community of its existing weightage in the six provinces where they are in a minority." (Vol. 11 page. 71,2). That means that if the Muslims give up their demand for separate electorates in Bengal, which like the Punjab is a Muslim Province, then the Commissioners would not reduce the weightage already enjoyed by the Muslims in other provinces. But the question is what power is left in the hands of the Commissioners, when the communities can arrange a settlement by mutual understanding. They would have been justified in saying this if they had left the choice of giving up separate electorates in the hands of the Muslims alone. But where a point is to be settled by the mutual agreement of the communities, the Commission have little to say in the matter. Their remarks about the Punjab are also based upon a similar error. The second unreasonable thing in their suggestion is that on

the one hand they affirm that as the Muslims insist upon the retention of separate electorates in Bengal and the Punjab, they cannot at the same time justly claim representation on the basis of their numerical strength in these provinces as well as retention of their present weightage in the others, while on the other hand they say that on the Muslims' abandoning this claim to separate representation in Bengal and the Punjab on an understanding with the other communities, they would not be deprived of the weightage in the six other provinces, and would also be permitted to contest extra seats in the Punjab and Bengal. Here there are two contradictory affirmations. On the one hand the Muslims are being deprived of their majority in the two provinces named above on the score of their insistence upon separate electorates, while on the other hand the Muslims are told that they cannot of their own accord give up this separate electorate without the consent of other parties. If the change is dependent upon mutual understanding, then it is evident that separate electorates are not retained in the interests of the Muslims alone but for those of all the communities, and hence it would be unfair to demand any special sacrifice from the Muslims on that score. On the contrary, if it be true that the separate electorates were created on their

account and it is on that account that they are deprived of the majority status in the major Muslim provinces, then in fairness it should lie in them to give up separate electorates, and no other community should have a voice in it.

The third error committed by the Simon Commission is that they have not considered what they are conceding to the Muslims and what they are taking away. They are conceding only a few seats while what they are taking away is the Muslim majority, and it is an elementary principle of economics that the value of commodities depend upon their utility and not upon their number. Will Sir John Simon be willing to give up the majority of his party if it secures that position in any election in favour of another party on an understanding that his party would be allowed to capture, say 15 per cent. seats when they are in a position to secure only ten in five or six future general elections. Can five per cent. over representations in different parliaments compensate for the loss of substantial majority in one? But the wonder is that in the case of the Muslims of India the Simon Commission see British justice in recommending a few extra seats in some provinces by way of compensating for the loss of their majority status in the Panjab and Bengal, of which they have

deprived the Muslims and that too permanently, for they have recommended that the system should not be changed unless the other communities agree. The Commission do not ponder even for a while as to why should other communities agree to a change and thereby sacrifice their permanent majority.

The fourth weakness in this Simon Commission recommendation is their refusal to allocate representation on the basis of population to the Muslims in the Panjab and in Bengal on account of the separate electorates. The Report says, "This would give Muhammedans a fixed and unalterable majority of the general constituency seats in both provinces. We cannot go so far." (Vol. II. P. 71.). That means that the Simon Commission is not prepared to assign a fixed and unalterable majority in a general constituency to even a majority community, for that is an excessive demand according to them. But the solution which they arrive at is that having wrested the majority status from the majority community they bestow it on the minority, and that too permanently. The case of the Punjab is somewhat doubtful but in Bengal a clear majority has been assigned to the Hindu.

In the general constituency 46 seats have been given to the Hindus while the Muslims have only 39. One depressed class seat too will be



Hindu. That makes 47 Hindu seats. Labour will have two seats at least one of which is sure to be a Hindu. That makes 48 Hindus and 40 Muslims provided of course that one labour seat is assigned to a Muslim which is doubtful. Five seats are reserved for the Zamindar constituency which is practically Hindu. But supposing one Muslim is returned, that brings the total to 52 Hindus and 41 Muslims. The University seat being a Hindu monopoly, the Hindu voters being in excess of the Muslims, ought to be put in the Hindu column, but supposing the University member is sometimes a Hindu and sometimes a Muslim, we leave him out of consideration. Yet trade and commerce being predominantly Hindu spheres, three seats out of four reserved for that constituency will certainly go to the Hindus if perchance one goes to a Muslim which is quite improbable. That means 54 Hindus and 42 Muslims—a difference of 12 seats. Anglo-Indians and Indian Christians have been assigned eight seats between them to which if we add eleven representatives from the European Chamber of Commerce and Planters, the total amounts to 19 seats, that is to say, there will be 42 Muslims and 73 non-Muslims. In other words the Muslims who form about 55 per cent. of the population are assigned 42 seats, while non-

Muslims who barely number 45 per cent. are assigned 73 seats in the Council. Thus the minority has been given 75 per cent. more than their due share. Even if we exclude Christians and Europeans, the Hindu majority enjoys 60 per cent. extra representation *i e*, 25 per cent. more than the Muslims while as a matter of fact in regard to population the Hindus are 20 per cent. less than the Muslims. These are only mild calculations and an understatement. What is practically going on is in excess to that. In 1922, for instance, there were 46 Hindu and 39 Muslim elected members. The Zamindar constituency returned all Hindus 5 in number. The University member too was a Hindu. The Chamber of Commerce was represented by 11 Europeans and four Hindus. The depressed classes seat was, as it should be, a Hindu. Out of the four nominated members, the Government without any regard to the Muslim interests, nominated three Hindus and one Muslim member. Thus there were sixty Hindus and only 40 Moslems.

In short, both in Bengal and the Punjab, in utter violation of all canons of justice, the Muslim majority has been ruthlessly destroyed. In Bengal the Hindu minority has been statutorily established on a footing of permanent majority status, while in the Punjab there existed the same

thing in 1922, *i. e.*, the Hindus and the Sikhs formed a majority. Though some sort of equality is perhaps now in evidence, yet this too is far from being fair in a province, where the Muslims are 55 per cent. The point worth considering is that if it is not just and fair to give a statutory majority status to a majority, what justification can there be for destroying the majority status of a majority or statutorily raising a minority to the status of a majority? Do not the Commissioners think that such a course is much more unjust than the supposed injustice of a majority being conceded the majority status? The Commissioners cannot say in self-defence that the Hindu majority in Bengal is due to the representation of special interests, for even in the general constituency the Hindus have been given 46 seats as against 39 of the Muslims. The other special interests such as Zamindari, Commerce, University, as well as Depressed classes, simply give the Hindu majority and added strength.

Similarly in the Punjab, under the term 'special representation,' the Hindus and the Sikhs have been allotted so many seats as to raise them to a majority status. But the question is, who has created the 'special' interests? Muslims or the law? Is it not an unjust law that robs a major community of its majority by creating

artificial distinctions? Was it not the duty of the Commission to change such a law? Are any 'special' interests represented in England? Despite the fact that in England far greater importance is attached to commerce than in India, it has not been accorded any separate representation there. If British Commerce in India deserved a special representation on account of its being a foreign interest, it was no reason whatever that the Hindus be made to dominate over the Muslims by being granted an extra representation. However, I leave this subject here as I intend to deal with it later on in detail.

The fifth mistake committed by the Simon Commission in recommending it, is that while recommending a Federal System for India it has recognised the fact that the various provinces of India are independent entities, or in the words of Lord Minto, India is not a country but a continent; but when it comes to the question of the rights of the Muslims it refuses them their majority in Bengal and in the Punjab on the ground that in the other provinces they have been given some weightage. Can those provinces which insist on the principle of federation like the idea that the right of one province should be given to another province? Is there anywhere in the world a constitution wherein a community has

been deprived of its rights in one province, because some additional rights have been given to it in another province? Can any Commission propose such a thing for Australia or for Canada without producing disastrous results? Why then should the rights of the Muslims of Bengal and the Punjab be sacrificed in this manner? Have the Muslims of Bengal or the Punjab given the Simon Commission or any other Commission any authority to distribute their rights amongst their co-religionists in other provinces and that too in a manner which should undermine the strength of the entire community throughout India? I might personally be prepared, for instance, to have a Muslim minority in the Punjab and also in Bengal, provided there is a Muslim majority in the U. P. as well as in Behar; but I do not think such an agreement would be acceptable to the Muslim community as a whole. But there is not a single Muslim body which agrees or can ever agree to an arrangement, which takes away the Muslim majorities in the Punjab and Bengal and only gives in return some weightage to Muslims in other provinces without turning their minority into a majority. As a matter of fact, the Hindus have, in fairness, been amply requited for the sacrifice they have made in other provinces in that the Muslim province of the N. W. F. P. has been

so far kept deprived of the benefit of the Reforms simply at the instigation and for the pleasure of the Hindus.

At any rate, no Commission has any right whatever to deprive the Punjab and the Bengal Muslims of their due rights for the sake of the people of any other province. The Muslims of the Punjab and Bengal are not at all prepared to accept any such arrangement. I am sure they will never agree to it; no sacrifice would be too great for them in this respect. If Great Britain does not consider the Muslims of other provinces to be entitled to any weightage, she can take back from them such rights as she may have given them; but she has certainly no right to give them any thing at the expense of the Muslims of the Punjab and Bengal. I should rather hope that Muslims in other provinces would not accept a weightage when their co-religionists in the Punjab and Bengal are required to pay for it such an exorbitant price. If a price must be paid, let it be exacted from the N. W. F. P., Sindh, and Baluchistan. The Muslims of N. W. F. P., are quite prepared to give Hindus a right of representation up to 25 per cent which is five times their numerical strength in that province. Similarly, the Muslims of Baluchistan and Sindh would be equally ready,

should they get the Reforms, to give the Hindus of those provinces rights of representation quite disproportionate to their population for the sake of their co-religionists in other provinces.

The sixth mistake made by the Commission in this connection is in spite of admitting that the Lucknow pact has always been a dead letter and that both the Hindus and the Muslims have now definitely repudiated it, it seems to have remained all along under the impression that whatever Muslims have got in other provinces, they have got on account of the Lucknow pact; and that therefore the pact should be enforced in the Punjab and Bengal also. But this is quite wrong. Muslims do not base their claims on the Lucknow pact, nor are they prepared to agree to any change on the strength of that document. Whatever is demanded by Muslims in provinces where the Hindus predominate or whatever weightage has been given to them in those provinces is based on Lord Minto's Declaration which, as I have already stated before, he made as Viceroy in reply to an address presented to him by a Muslim Deputation. This declaration is as follows:

“You point out that in many cases electoral bodies as now constituted cannot be expected to

return a Muhammadan candidate and that if by chance they did so, it could only be at the sacrifice of such a candidate's views to those of a majority opposed to his community whom he would in no way represent; and you justly claim that your position shou'd be estimated not only on your numerical strength, but in respect to the political importance of your community and the service it has rendered to the Empire. I am entirely in accord with you." It is clear from the above quotation that (1) Lord Minto admits that the discarding of the system of joint electorates is no favour to the Muslims. It is only saving them from death, and, (2) that the Muslims are entitled to a representation in excess of their numerical strength. Hence the Simon Commission, nor any other body, can look upon separate electorates as a concession to the Muslime for which something should be expected in return. The system of separate electorates has been declared by Lord Minto to be the basis of the rights of Muslims. Similarly, his declaration makes it clear that the weightage given to Muslims in some provinces does not at all mean that they should in return forego their legitimate rights in any other province. The weightage has been given in recognition to the political importance of the Muslim community and



the sacrifices made by them in the service of the Empire. It would therefore be not lawful for Great Britain in any way to deprive the Muslims of their rights in the Punjab and Bengal on account of that weightage. The representatives of Great Britain can, of course, treat Lord Minto's Declaration as a mere scrap of paper; they can also say that the times have changed and that it is no longer possible for them to pay any consideration to the fact that Great Britain had acquired the major part of India from the Muslims by way of rewards and tenancy. They can even deny the political importance of the Muslims. They can also say that the price of the services rendered by the Muslims has all been paid up or that better servants than Muslims are now available, and that therefore they withdraw the weightage they had given the Muslims in some provinces. British representatives can say all that, but what they cannot say is that they had allowed the present weightage in favour of Muslims in the six provinces in consideration of the sacrifice of the Muslim majorities in the Punjab and Bengal, because this is against the record of the Government of India. If Great Britain grudges this weightage in favour of Muslims, she can withdraw it by all means. But let her not demand of us a sacrifice which

we are not at all prepared to make in any case. Whoever of the Muslim delegates to the Round Table Conference agrees to forego the Muslim majority in the Punjab or in Bengal, will certainly be regarded by the Muslims as a traitor and an enemy of his community and religion, and to my mind they will be perfectly justified in doing so.

The principle advanced by the Commission that no community can be allowed to have a permanent majority is quite erroneous, for it is an invariable and universal principle that whereas a majority always enjoys a permanent majority status, a minority is never treated as a majority, be it permanent or otherwise.

It is most singular, however, that while the Commission have virtually given to the minority a majority status, they have denied the same to the majority.

The seventh mistake which the Commission have committed in this connection lies in the motives which they have revealed to be working behind their suggestion. Speaking of the question of electorates in the Panjab and Bengal, the Commissioners say, " We make this last suggestion which really involves giving the Muslim Community the advantage of a choice between two courses to follow, because we sincerely desire to

see all practicable means attempted for reducing the extent of separate electorates and for giving the other system a practical trial." (Vol. II., P. 72).

This quotation clearly shows that the object of the Commissioners is to force the Muslims to give up separate electorates, but knowing that they cannot openly require them to forego this right as the Government has pledged its word to give them separate electorates, they want to achieve this purpose by indirect means. But I would tell the Commissioners that whatever the method adopted, unless the Muslims agree to forego this right, any direct or indirect attempt to rob them of it will, according to the science of ethics, amount to a breach of promise. The Commissioners should have remembered the words of Lord Minto to the effect that the Muslim candidates who are returned through joint electorates cannot be regarded as representatives of their community. The Commissioners ought to have paused to consider in the light of facts whether the time had really arrived when the opinion of Lord Minto no longer held good, and when the system of joint electorates could be fairly experimented. Even now there are certain seats for which the system of joint electorates is in vogue, and the Commissioners could have

easily seen for themselves by studying the results of these elections whether the principle of joint electorates had been a success. Does our experience go to prove that there is any trace of citizenship or of patriotism in the way in which votes are given in these elections? Has any Muslim ever secured a University seat even in the Panjab and Bengal where the Muslims are in a majority? Now when this is the state of affairs in Muslim provinces, how can the Muslim community be convinced of the blessings of the system of joint electorates? From a long and bitter experience it is known that generally the Hindu mind is swayed by bigotries of caste and creed to the exclusion of patriotic sentiments. In the face of such an experience, to first destroy the Muslim majority wherever it exists and then to advise, or in a way force, them to accept the principle of joint electorates is the height of injustice.

I cannot go here into lengthy details, but I may briefly point out that the principle of separate electorates is not so bad as some people represent it to be. Constitutionalists have admitted its utility and its necessity in certain cases and it forms part of constitutional science. In view of this fact, it can be readily understood that the opposition which is frequently meted out to sepa-

rate electorates by Western thinkers more often relates to the form in vogue in India than to the principle itself. The difference between the form of the system of separate electorates as it exists in India and that to be met with in other countries is this that whereas in other countries the principle is based on ethnological, vocational, or geographical considerations, in India it is founded on the ground of religion. For example, the House of Lords in the English Constitution is also based on this very principle. As regards the advantages of the Second Chamber, they have come to be recognised only recently. The Lords, however, claimed their right of being consulted in the affairs of the Government long before that, and they wanted that they should be exempted from being elected by the popular votes as this would subject them to the uncertain fortunes of the elections. Moreover, it was claimed that the heirs of the individual who was personally invited by the King to sit in Parliament and who obeyed this Royal summons, had thereby acquired a perpetual right to be summoned in Parliament. (The constitutive Administration and Laws of the Empire by A. B. Keith, P. 172.)

The University seats are also based on the same principle, otherwise there is no reason why Universities should be given separate seats instead

of being represented through the general constituencies. The same holds good in the case of seats set apart for commerce and industries. In the case of all these interests which are comparatively small and less important, the principle of separate electorate is observed, but when the religious identity of a community is in danger, the demand for separate electorates is dubbed as unconstitutional. This is indeed most anomalous and beyond understanding.

After pointing out the errors of the Simon scheme, I now proceed to make some proposals which I believe to be sound and reasonable, and which if carried into effect will meet the dictates of justice and equity. To begin with, I want to say that though in the Panjab and Bengal the Muslims are apparently in majority but, really speaking, they do not enjoy a majority even in these provinces; for, by majority is really meant not a merely numerical majority but a real and effective one, and this sort of majority the Muslims do not enjoy. In the beginning it was the Government itself which aimed at weakening the Muslims, for, after the Mutiny the Government had begun to think that the strengthening of the Muslims; would be against the interests of the Government.

No discriminatory law was passed against

them, but the official policy was against them. So markedly was this anti-Muslim policy pursued that our famous Indian poet, Ghalib, who was a courtier of the last Mughal Emperor of Delhi and who came from a noble family relates a very striking incident which is illustrative of the British policy towards the Muslims. After the Munity, owing to the reverse of fortune, the celebrated poet was reduced to great straits. He was advised by a friend to take employment. It so happened that in the English school at Delhi there was just then a post for a Persian teacher vacant, and for this Ghalib applied to the English official at whose disposal the said vacancy was. But the said official refused to engage him on the ground that he was a Muslim. Ghalib, who was never at a loss for a witty retort, made a quick repartee, saying, "Sir, you are mistaken. How can I be a Muslim? No day has ever passed in which I have not tasted wine and no day has ever passed in which I have performed the prescribed Islamic prayers." But Ghalib's wit did not avail and he was unceremoniously dismissed. Such incidents were of daily occurrence till the time when the Late Lord Curzon put an end to this injustice by publishing a circular that in future the Muslims should on account of their backwardness receive special

consideration in the matter of services, etc. But in actual practice this circular proved of little avail, for, by this time the Hindus had established themselves in almost all the Government departments. So the evil continued till we find to-day that almost every department is monopolised by the Hindus; the public services, the banks, and commerce are all in their undisputed possession. In the Panjab, when Land 'Alienation Act was passed, in my estimation more or less 30 per cent. of the land had passed from the hands of the Muslim agriculturists into the possession of the Hindus, while in Bengal within a short time of the establishment of the British Rule there, the Hindus had possessed themselves of the great part of the land through the system of permanent settlement granted to revenue farmers. What remains is heavily mortgaged to the Hindu money-lenders. The Zamindars are often compelled to borrow money, and the rapacious Hindu money-lender always takes good care to keep them under his thumb. Under these circumstances it is clear that both in the Punjab and Bengal the Muslims cannot be said to be enjoying a real majority, and it is only real majority that can enable a people to protect and safeguard their rights unhclped. Hence it is evident that



until the Muslims come to possess real majority in the above two provinces, they will continue to be in need of protection and safeguards. In addition to the drawback indicated above, there is another source of weakness for the Muslims and that is this that the franchise rules are so framed that the Muslim voting strength is considerably reduced as compared with that of other communities. For instance, in the Panjab, while the percentage of population of the Muslims is 55·2, their voting strength is only 43·7, and in Bengal where they form 54·6 per cent. of the population, their voting strength is only 45·8 per cent. of it. Thus when even through the agency of artificial laws the Muslims are kept below their population strength, they cannot be said to be in a majority. If it is said in reply to this that, this artificial disability of the Muslims would be removed and their voting strength raised to the percentage of their population figure, I will say that the sooner it is done the better. But even after this disability has been removed, it will take some time before the Muslims avail themselves of the voting facilities, for they will require some time to educate their voters as to how votes should be given. Thus even in this respect the non-Muslims will have for some time a decided advantage over the

Muslims, for a greater number of the former already possess the necessary experience and knowledge about voting, which the Muslims will continue to lack for some time to come. Moreover, under the new franchise the Muslims will also be handicapped in this, that their voters will take time before they feel sufficiently interested in politics to avail themselves of their voting power. Every one knows how enthusiastic were the British women about winning franchise for themselves, but after having acquired it, they did not show an equal interest in exercising their right, which is due to the fact that they have not as yet fully learnt the way in which voting power is to be used, nor have they as yet evinced sufficient interest in practical politics.

To sum up, although numerically the Muslims are in a majority in the Panjab and Bengal, yet in point of strength and power they are in a minority, and therefore they require as much protection as any numerical minority. They require this protection even more, for, to allow a large community of men to be exposed to sufferings is more cruel and more inhuman than to expose a small community to the same fate. On the other hand, it is equally true that a weak majority should not be afforded perpetual

protection, for, that would lead to enervation and weakness, besides proving detrimental to the general interests of the country as a whole. Hence, it must be admitted by every one that special safeguards required to protect a majority community can only be temporary, and that the temporary nature of such protection is not only essential to the existence of that community but is also in the general interest of the country.

Having laid down this general principle, I will now revert to the question of the Muslim majorities of the Punjab and Bengal. As I have stated above, a majority deserves protection only when it is a majority in name while in reality, *i.e.* from the view point of strength, it is merely a minority; and further that the protection thus accorded must be only temporary. According to this principle the Muslims of the Punjab and Bengal, who, as I have explained above, are not in real majority but are practically in a minority, require special protection but this protection should be temporary.

The question naturally arises as to when or how to end the period of these temporary safeguards. Some say that when the majority will declare that it no longer requires any protection, they would be done away with. But as I have already indicated it is not practicable, for, when

that time comes the other communities may insist on their retention in their favour, thus perpetuating not for any real necessity but only by way of retaliation, an arrangement that was devised to serve a mere temporary end. Moreover, though one may call these safeguards as a mere temporary arrangement yet the community which would benefit by them, may hesitate to forego them thinking that the matter rests with them, and that they would give them up whenever they like, and thus they will get used to these safeguards and instead of creating an awakening in themselves or learning to cultivate feelings of amity and good will towards others will by and by get used to rely on these protective measures.

In view of the above it is imperative that we should devise means to enable us *firstly*, to dispense with these temporary measures after some time without creating this dispute afresh; *secondly*, to force the so called majority community to improve its condition as soon as possible; *thirdly*, to ensure that these safeguards do not become the means of aggravating the communal situation. The only remedy for all this, in my opinion, is to fix a definite period for those safeguards after which they shall lapse of themselves. In this way none of the communities would be in a position to press for its continuance. Simi

larly, the majority, which is really speaking a minority will realise that it cannot depend upon those safeguards for ever, hence it will try its best to make up for the lost ground by awakening in its members the sense of looking after themselves as early as possible. *Fourthly*, all the communities will try to cultivate friendly feelings towards one another, for, on the one hand they will know that no community can take an undue advantage of the lethargy of the others and on the other hand they will be conscious of the fact that a day was fast coming when all shall have to work together, and depend upon the co-operation of one another. In short the fixing of a definite period is the best plan to serve our purpose in this connection.

I have already specified the period to be fixed for this transition stage. Here I wish to add that fifteen years, to be counted after the complete attainment of provincial autonomy, *i. e.* the period covered by three normal elections, should suffice for it. If we put the period in which complete autonomy would be granted at ten years that will bring up the whole to 25 years which seems to be suitable, for it is difficult for a community to make up the lost ground in the educational as well as in the economic sphere in less than that period.

I have stated that the right of returning their members through separate electorates should be taken away from the minorities at the end of this period, but they should continue to enjoy, as long as they prefer, the privilege of reservation of seats under the joint electorates. Now I take up the question of fixing up the proportion of representation. I have already said that minorities are of two kinds, one from the standpoint of numbers and the other from the viewpoint of power and organisation. Now if we once accede to the principle of safeguards for the minorities, we will have to concede the right of protection not only to the numerical minority but even to that majority which is for all practical purposes only a minority.

And if we admit the above principle we shall have also to admit that we should provide for a backward majority as many safeguards as may be reasonably required to enable it to stand on its own legs. Until we do the utmost in this behalf, the ends for which these protective measures were devised will not be served. Now the maximum reasonable right of a backward majority is its representation in proportion to its numbers. Under this principle the backward majorities of Bengal and the Panjab which are practically speaking mere minorities, should

necessarily get 54 and 55 per cent. respectively of all representation. As under this proposal, this special protection will last only for a limited period, it also does away with the objection of the Commission that no community can be granted a permanent majority status, for this state of affairs will be only for the stated period of transition after which the electorate will be free to return candidates on the basis of their qualifications and the policy they intend to pursue. By that time party politics would have also probably come into being, and the religious basis of election would have passed away, and election on the score of party programmes would have begun dispensing with the need of safeguards which are now so essential.

In this connection I would also suggest an alternative plan which would obviate objection of the Commission against the setting up of a majority with statutory makeshifts. This plan is that Bengal and the Punjab should be divided into two parts each. The first should consist of those constituencies where the voters of one community form 80 per cent. or more of the total population *i.e.*, where the proportion between the majority and minority communities is at least 4 to 1. In such constituencies joint electorates may be immediately introduced. In all others

separate electorates should continue. That means that the system of joint and separate electorates will work at one and the same time and the country would benefit by both sorts of experiments, and as in constituencies where the system of joint electorates is introduced the proportion of votes would be at least 4 to 1, no minority member will be able to win unless he can capture at least 31 per cent. votes from the electorate of the majority community over and above those belonging to his own community, and as such a thing can happen very rarely the majority will be practically quite immune. Similarly, in the other constituencies the Separate Electorates will continue till they are closed at the end of 25 years. By adopting this scheme also the supposed objection against legally fixed and unalterable majority will be removed, for in this way a considerable portion of the seats will be returned by joint electorates. If it be said that the setting up of 4 to 1 proportion which is sure to prevail in favour of the majority is also tantamount to statutorily fixing majority, the objection would not be tenable, for here both the communities will be on par with each other. Moreover, if this is regarded as a legally fixed majority, the same can be said of the Hindu majorities, say in Madras and C. P. where the Moslems and the Christians



combined do not form even 15 per cent. of the population.

The second question pertains to those provinces where the Muslims are in minority. But this question is automatically solved by the creation of Sindh and N. W. F. P. into separate and autonomous provinces. If the Hindus as a community would like to arrive at some sort of understanding with the Muslims, they would be able to do so with the Muslims of these two provinces. The rights which they would be willing to concede to the Muslim minorities in their provinces will be willingly conceded to them by the Muslims in these two provinces. If the Hindus do not do so, then of course only their proportionate right will be conceded to them, for Muslims are inspired by the same feelings towards their community as are entertained by the Hindus towards their own co-religionists. But in this case the claim of the Muslims under the Minto Declaration to greater representation than their numbers warrant would remain as valid as ever, whereas the Hindus would not be entitled to any concession in that behalf, for their rights are not based upon any declaration of the Government. Their title to concession is a matter dependent on mutual understanding only, failing which they can not justifiably put forth any claim.

After we have settled this question in principle, we come to the details where we meet with a number of difficulties; for in Bengal and the Punjab the constituencies have been so arranged as to constantly endanger the Muslim majority rights. For instance, a number of constituencies based on special interests have been created in a way as to upset the balance of Muslim representation in the general constituencies. So far as my knowledge goes, this question has greatly perturbed the Government circles, but even a little consideration would show that this perturbation is of Government's own creation, for the ratio of the special to the general constituencies here in India is far in excess of other countries. All over the world outside of India it is presumed that a big landlord, a commercial magnate, or a great industrialist, has, owing to the immense influence he wields, greater opportunity of being returned to a Council than ordinary men. But here in India the Brahmanic system is supreme everywhere; so much so, that even if we succeed in casting aside the old caste Brahman, we cannot shake off this new Brahman in the form of the representatives of special interests and vocations, who wish to lord it over others by refusing to be returned through general constituencies and are thus bent upon upsetting our popular systems.

In the Punjab alone, out of seventy-six non-official elected seats 12 are reserved for special interests *i.e.*, University 1, Baluch Sardars 1, big Zamindars 3, Commerce 2, Christians 1, Military Service 1, Labour 1, which means that 16 per cent. of seats belong to special interests. How can it be possible to keep up the communal balance in the face of such disturbing factors? Not half of this ratio is to be found in any other country of the world. Where is the need for instance for the special representation of land holders who already enter the councils in very large number. The Simon Report too has expressed surprise at this special representation which is more than adequate in the constituency. There is therefore no reason why these special constituencies should continue any longer. Special interests are only created where there is fear of any interests remaining unrepresented or again where there is a second chamber like the British House of Lords as opposed to the Commons. But here the landholding class can entertain no fear, nor is there any second chamber. It would be interesting for the readers to learn that I am landholder myself, and when I say that this special constituency should be abolished I know that I am striking a blow at a special reservation devised to strengthen my own class and am sacrificing my own

rights and those of my three brothers. But that cannot deter me from raising my voice against this harmful system. Similarly, there is no need for a reservation in favour of Commerce. Cannot the commerce people, who wield so great an influence, be returned through the general constituency? Have they got any reservation for commerce in England or America? Let people belonging to the profession of trade and commerce stand from the general constituency and contest and secure as many seats as they like. As for the military, also all who have served in the Great War enjoy the right to vote, and if they have got any special rights to protect in the Councils, let their voters exercise their influence and return some candidates of their own choice. The same remarks apply to the labour seat. There are a good number of voters among the labour class who can combine to return members of their choice. It may be noted here that the labour member on the Simon Commission strongly objected to this special labour representation. In short this special representation is uncalled for and if this is abolished the question of the maintenance of balance between different communities becomes comparatively easier. Similarly, in Bengal reservations in favour of land-holding class, commerce etc. are a great obstacle in the way of this communal balance.

Now there remains only the question of the European representation. I should admit that the present state of high tension against Europeans owing to anti-government feelings entitle them to some sort of safeguard, but it is useless to maintain the divisions of general European constituency and European commerce. Suitable number of seats may be reserved in their behalf which can be utilised by them for all interests. We do not object to European interests being safeguarded, especially in these days when feelings are running high against them, but we do object to the setting on foot of fictitious principles of representation which might induce other communities, such as the Hindus, to put forth similar pleas in behalf of similar interests belonging to them. I think the system of reserving special interests was originally created to protect European interests, but to make them palatable the principle had to be extended to other communities as well. Now, however, when the Muslims have fully awakened to the injurious effects of these special reservations, they would see to it, that in giving the Europeans a deservedly special representation by way of a safeguard, no loophole is left for the Hindus likewise to take away a big slice of their representation and thus upset the communal balance in their own favour.

With the above considerations in view, I would propose for the Punjab the following percentage of representations, Europeans and Anglo-Indians including all interests 2 per cent., University, 1 seat to be occupied alternately by the Hindus and Muslims, the former including the Sikhs also, on the joint electorate plan; or there might be two seats, one Muslims and the other non-Muslim on the joint electorate plan, or in the alternative on the single transferable vote plan with the reservation that one member shall always be a Muslim who gets the largest number of votes among the candidates of his own community, or each voter should be assigned two votes, one to be given to a Muslim candidate and the other to a non-Muslim, or any other method be adopted by which adequate Muslim representation from the University be secured. Likewise if any special representation is to be given to the big landholders, though as I have explained above, I am against it, it should be confined to only one seat being reserved for D. G. Khan tumandars, for they are a sort of petty chiefs. But in such a case, it should be laid down that they cannot stand from any other constituency. Supposing the Punjab has 200 seats, seven are in this way disposed of, and there remain 193 seats. Out of these, on the population basis, 59.8 should go to the Hindus

23·16 to the Sikhs and 2·5 to the Christians and the Depressed classes.

The above figures are according to the population basis. But allowing a fractional increase we may assign the Hindus 60 seats instead of 59·8, while in the case of the Sikhs, Christians, and Depressed classes we may assign 24 and 3 seats respectively. That would leave the Muslims with 106 seats to which if one Tumandar and one University seat be added their total representation would come to be 108 which is less than they are entitled to on the population basis (they are more than 55 per cent) which works out in the neighbourhood of 111 seats. The loss of three seats to the Muslims has gone to swell the given extra representation to the European and others. Similarly, the Hindus will get 61 seats in all including one Hindu University seat, thus sacrificing only 1 seat (in view of their 31 per cent population they are entitled to 62 seats) to make room for the minorities. In view of the fact that socially the Hindus and the Sikhs are one and the same, for, they not only protect and stand for each other's interests but also remain united against the other communities, the above division is quite fair and reasonable. As regards Bengal I would assign 6 per cent seats to European and Anglo-Indian interests of all kinds to be given. out

of the Muslim and Hindu representation in the ratio of 2 to 1 *i.e.* 4 from the Muslim and two from the Hindus, the total Muslim and non-Muslim ratios thus standing at 50·6 and 49·4 respectively. Two seats might be assigned to the University of which one should be given to the Muslims and one to the Hindus. There is no need for a separate representation for the landholders but if their interests must require special representation, it should be proportionately divided between the Muslims and the Hindus, for, if the aim is merely to safeguard Zamindari interests and there is no ulterior motive behind it there should be no objection to proportional communal representation in this behalf which may be carried out by joint electorates with reservation of seats according to the population ratio. This is in view of the fact that no community should take an undue advantage through the plea of special interests. Similarly, if it be considered necessary to give special representation to trade and commerce, the Muslims and the Hindus should share in accordance with their proportionate population. In short, whether it is a special representation of the landholders, or that of trade and commerce, or of any other, the rule should be that no special representation should in any way upset the communal balance



which is the objective in the general constituencies.

I don't like to go into the details of what should be the method of election for there are various methods of election that can suit us. All I want to say is that after we have accommodated the European and Anglo-Indian interests out of the general Muslim and non-Muslim representation in the ratio of 2 to 1, we must preserve the Muslim and non-Muslim ratios intact in general as well as special constituencies if special constituencies pertaining to Zamindari and commercial interests are to be retained at all.

I think my friends can readily point out here one deviation on my part. They can say that up to this time I have insisted on maintaining that the Muslims should be given representation in proportion to their numerical strength, but herein I have proposed 54 per cent. instead of 51 per cent. in the Punjab, and 50.6 per cent. in place of 54.5 per cent. in Bengal. They should know that I am still in favour of my population ratio principle, but we must bear in mind at the same time that we have to safeguard the European interests who though numerically very small have wide-spread interests in the sphere of industry and commerce. If they are to enjoy any rights, they must have them out of the general pool. It would

not be reasonable and fair to admit their special interests and yet to fail to make provision for them. Hence, in giving extra representation to the Europeans etc, two principles shall have to be observed. One is that the absolute majority of the Muslims should be kept intact. The other is that the Europeans etc. should in fairness get some representation over and above their population basis; and in view of these two principles the above division of representation should be accepted as reasonable. The Muslim would also do well to remember that in Bengal and the Punjab, the Europeans have as a community often sided with the Muslims and their rights. The All-India British Association in their recent gathering at Calcutta have given a wholehearted support to all the Muslim claims. We must therefore extend the hand of friendliness towards them and would rest assured that this mutual advance will be in the interests of both. We shall find in them good friends and as they are mostly in trade, their rivalry and competition with the Hindus is much greater than that with the Muslims. I have every hope that in Bengal and the Punjab both the communities *i.e.*, the Muslims and the Europeans will arrive at some sort of understanding to establish a majority government in the best interests of these two provinces and will set

a good and noble example for the other provinces.

I would also make it clear that this division and distribution of seats which I have stated above has been based on the present ratios of 55.4 and 54.6 in the population of the Punjab and Bengal. If in the coming census these ratios are exceeded as we hope they will do, the benefit from these increases will of course accrue to the Muslims and will not be distributed among other communities. With this happy future in view, the Muslims should try to bring about an understanding between the different communities. They should particularly not grudge to make a further sacrifice in order to satisfy the Sikhs. In my opinion they should not even hesitate to accept a ratio of 52 per cent. in the Punjab on the present basis of population if they can by this means arrive at an amicable settlement with the other communities; for, God helping, we have every hope that in the coming census we will make 57 per cent. of the population, which would bring in an additional  $1\frac{1}{2}$  per cent. representation, thus taking our total representation to 53 per cent. which every decade shall, God willing, further strengthen and swell.

### **Franchise and Women's Representation.**

Now I take up the question of Franchise. But as I intend to deal with only that aspect of

this question which is connected with female suffrage, I have coupled with the question of franchise that of women's suffrage as well. I regret to say in this connection that the Commissioners have been very unscrupulous in judging this question. They have raised a question which it was no business of theirs to raise, i.e. they have made an attack on the religion of Muslims.

Sir John Simon and his colleagues cannot be unaware of the fact that the observance of *pardah* is an Islamic injunction, and to write anything against it is to make a direct attack on Islam. There is no denying the fact that every one is at liberty to hold whatever view he pleases, and Islam surpasses all other religions in teaching toleration in this respect. If Sir John Simon had written a religious book, I would have regarded his views with respect and would have weighed the soundness or otherwise of his arguments. But Sir John Simon was writing the Royal Commission Report and therefore he should have abstained from religious matters. He repeatedly holds *pardah* to be responsible for many evils. For instance, he says, on p. 50, Vol 1 of his Report:—

“The gap is at its widest in the age groups 10 to 20, and may not be unconnected with social

customs and practices such as *purdah* and early marriage and unskilful midwifery which seriously affect the vitality of so many Indian women." Again on p. 52, Vol: 1.

"As long as the destiny of a little girl is child marriage and the seclusion of *purdah*, there is no public opinion and no parents' ambition to urge that daughters should have their opportunities of good education."

As a supposed remedy against this seclusion the Commissioners have strongly advocated the enfranchisement of women, but they have ignored the important principle of politics that political privileges should be granted only when there is a demand for them. Men are clamouring for their privileges but the Commissioners are afraid to allow any extension of franchise in their case. They refuse to give direct representation to the people of the North Western Frontier Provinces. They do not invest Baluchistan with the right of representation on the ground that it would be against their principle to do so. But they are anxious to enfranchise women without there being any demand on their part and without paying any heed to their condition. Is it not an instance of inconsistency on their part? Does it not show that the enfranchisement of Indian women has been proposed out of

a desire to show the superiority of western civilization rather than as a remedy for the so-called social evils of India. The taking up of such an attitude, however, on the part of the members of a Royal Commission is, to say the least, most undesirable.

It is still more regrettable that Mr. Wedgewood Benn, the Secretary of State for India, has also taken up a similar attitude, for as I was told by a member of the Government of India, he pressed for the nomination of two Indian ladies, one Hindu and the other Muslim, as delegates to the Round Table Conference, although the Government of India twice demurred to such a course. The Muslim female delegate is the daughter of a distinguished gentleman of our province and the wife of a distinguished countryman of ours, who is a friend of mine, and I have no objection against her personal qualification. I hope, therefore, that this remark of mine would not be construed in any way as a reflection upon that respected and worthy lady. I take objection only to the action of the Secretary of State for India, for, in spite of the fact that the Indian Government pointed out to him the undesirability of nominating any lady as delegate to the Round Table Conference, he pressed upon them to nominate two Indian

ladies, and has therefore unlawfully interfered with the religious usage of a people.

I now turn to a refutation of the views expressed by the members of the Commission with regard to the *pardah*. Firstly: the Commissioners attribute the excess of males over females in India to the observance of *pardah*, it is indeed a strange inference! *Purdah*, it is said, impairs the health of the females, and consequently there is heavier mortality among the females than among the males. But how will they account for the disparity between the number of males and females in England which is much more marked than that in India, the only difference being that in England the females exceed the males while in India the males exceed the females.

Can anyone hold with any show of reason that males in England are subjected to some tyrannical treatment which has resulted in shortening the lives of males more than the females? If the Simon Commission had taken the trouble to compare the population statistics of different countries, they would have discovered that the disparity in the numbers of males and females is governed by certain laws of nature, which are so subtle that the Simon Commission could not know much about them. For an interesting study of the members of the Commis-

sion I may cite, as an example, the case of the Northern part of Ireland under the Government of Ulster where the females exceed the males by 4 per cent., whereas the males in the Southern part of Ireland, that is, in the Irish Free State, exceed the females by nearly 2 per cent. Can it be concluded from the above that in the North the males receive a tyrannical treatment, while in the South the females? The theory advanced by the Commission, therefore, cannot at all hold good. The above disparity may, however, be explained by the fact that owing to some subtle natural causes the English race procreates a greater number of females than males; and as the English element preponderates in the North of Ireland, the females exceed the males in that part of the country; and as the South of Ireland is inhabited by the Irish race, the males form the majority in the South.

The members of the Simon Commission have made another mistake in their judgment. They have not taken into consideration the fact that the deficiency in the number of females is most marked in the Sikh population and among the hill tribes; and both of these peoples are extremely opposed to *pardah*. Early marriage is also not common among the Sikhs and their women are very healthy and strong. But



inspite of all this, their males far outnumber the females, so much so, that a large number of their men have to convert women of other faiths into Sikhism to get wives for themselves. Among the hill tribes, in spite of their non-observance of *pardah*, women are so few that many cases are found even now where a single woman has been married to three or four husbands at a time.

Again, if the Simon Commission had cast a glance at facts, it would have discovered that *pardah* is not observed by more than 10 per cent. of the population. Among the country women, 99 per cent. do not observe the customary *pardah*. Hence, if the deficiency in the number of females be due to *pardah*, then considering the difference between the numbers of males and females, we should suppose that in the *pardah*-observing section which is only 10 per cent., there is only one woman to every two men which is obviously wrong.

Early marriage, by which I do not mean marriage at any particular age, but marriage before puberty, is indeed injurious; but it is very rare among the Muslims. The Simon Commission is quite wrong in saying that there is a tradition about child-marriage among the Muslims. There is no such tradition among them. If the Muslims raised their voice against

the Sarda Act, it was not because they approved of early marriage, but because they did not like that a non-Muslim majority should interfere with their personal law, for this opened the way for further interference. Child marriage indeed prevails among the Hindus and it is they who particularly suffer from its evil consequences, for widow-marriage is not allowed among them and consequently any woman who is widowed has to remain husbandless all the remaining years and thus ruin her life. Any instances of child marriage that are to be found among the Muslims are due to their contact with the Hindus, and we are slowly putting an end to it.

Now I turn to the effect of *pardah* on health and education. It must be remembered that *pardah* has been practised among the Muslims from the earliest times, but in spite of this Muslim women have been taking part in all the spheres of administration. Muslim women have ruled over countries; they have served in armies; they have held the offices of judges and they have worked as professors. It should also be remembered that *pardah* observing Muslim ladies have acted in all these capacities, which require the exercise of both strength and knowledge, at a time when all the other women who knew no *pardah* were mere non-entities in both these respects. This shows that it is

not *pardah* but other causes which are responsible for the present backwardness and ignorance of Muslim women.

I am at a loss to understand why *pardah* is looked upon as a hindrance to education. The Ahmadiyya Community, by the grace of God, believes in the Islamic *pardah*, yet female education is more advanced in the Ahmadiyya Community than in any other community in India. From the moment of my being elected as the Imam (Head) of the Ahmadiyya Community, I directed my attention to female education, and continued to encourage it in spite of all sorts of objections. The result is that now at Qadian 90 per cent. girls are, through the grace of God, receiving education, and for the last three years our women have been appearing at some of the University examinations and one or other of our *pardah*-observing ladies has been standing first in the whole University. *Pardah* does not stand as an obstacle in our way. The real difficulty lies in the fact that it takes a long time to have trained lady teachers, and on the other hand the authorities do not allow that male teachers be appointed to teach girls from behind a screen. So we cannot have our schools affiliated to the University until we can have the lady teachers. Thus the obstacle that is hampering the progress

of our female education is not *purdah* but the attitude of the government, which, knowing very well the dearth of trained lady teachers, does not permit that old and reliable men be appointed as teachers in girls schools until such time when lady teachers are available in sufficient numbers.

If Sir John Simon read this writing of mine, I hope he will not take it as a personal reflection upon himself. He may very well remember that it was the community of which I am the Head, who more than any other extended their cordial welcome to him and his colleagues on their arrival in India and had carried on a very powerful counter-propaganda against the boycott of the Commission by means of leaflets, tracts, newspapers and public lectures. I have had to make this protest against the Commissioners because I believe that they have attacked an Islamic injunction without making proper enquiries about it.

In short, *purdah* is an Islamic institution. If some Muslims deny it or abandon it under western influence, that is a different thing, but there is no doubt at all as to its being an Islamic institution. Even the wives of the Holy Prophet (may peace and the blessings of God be upon him) used to observe *purdah*, and they observed

ite ven at a time when Muslim power was fully established and when there was no danger of any insult or affront being offered to them. We have moreover a firm conviction that the tide will one day turn in favour of this misused and misunderstood institution of Islam, just as it has already turned in favour of divorce, prohibition of wine and the rights of women to property.

In short, any such legislation as is primarily designed to force Muslims to forsake their religious ordinances can by no means be accepted by them. It is for our women to demand their rights from us and to use them consistently with Islamic injunctions.

It is no business of any other people or the Government to force us to obey their own wishes regarding women. Hence if the extension of franchise to women means that the community who does not avail itself of it should suffer in respect of the number of their voters, I can tell the Commissioners on behalf of a large section of the Muslim Community that not only Muslim men but also Muslim women will not accept it.

I wish to make it clear that I am not of those who are opposed to the advancement of women. On the other hand I believe that from the Islamic standpoint women are as much entitled to spiritual, intellectual and moral progress as are men. As Head of the Ahmadiyya community I have not

only laid special stress on female education and made arrangements for it, but I have also organised the women of my community, established their associations and have even given them the right of vote in matters of communal importance. Hence, the afore-said view of mine is not an outcome of any spirit of intolerance or conservatism. It is rather a piece of sincere advice, by ignoring which Britain will be guilty of creating an atmosphere in this country which may prove injurious both to herself and to India. The Muslim woman has been enjoying her rights ever since the time when the world believed woman to be soulless. She has been deprived of a number of her rights owing to the influence of other communities but, God willing, she will regain her lost rights with the help of her own brothers and fathers. It will, however, be effected in the way which God has appointed for it and God, being neither male nor female, cannot be accused of partiality.

### III. SECOND CHAMBERS.

I have been opposed to the creation of a Second Chamber from the very beginning not because I do not recognise the advantages of a Second Chamber, but because the Second Chamber as outlined in the Montague-Chelmsford scheme was such as was sure to cause trouble and was

not calculated to fulfil its purpose. So I have been always averse to the creation of Second Chambers, both in the Central Legislature and the Provincial ones. But now when the question of reforms is being re-considered and the Indians have been offered an opportunity to draw up a constitution based on reasonable and sound principles, I think it is time to reconsider the question of Second Chambers, and the conclusion, at which I have arrived after my fullest thought over it, is that the Council of State as at present constituted is not desirable for the following reasons; *firstly*, it comprises a large number of nominated members, and the present practice of nomination also is not based on any definite principle; *secondly*, the conditions for membership are not such as to ensure the securing of capable men for its membership; and *thirdly*, in the creation of this chamber the principle of federation has not been kept in view. Hence I am definitely against the present form of the Council of State nor do I recommend its prototype in the provinces.

But ignoring the present form of the Council of State, we should consider on principle whether there exists any need for a second chamber in the presence of the Assembly. If it does, then why?

Abb Sieves, the French politician, is the leader

of those politicians who are opposed to a Second Chamber. His argument in brief is that if the Second Chamber concurs with the First, it is superfluous, and if it takes contrary views, it is injurious. In spite of this opinion, however, most countries have two Chambers, Turkey, the Balkan states and the States which were separated from Russia being the only exceptions. Hence the experiment of the different nations of the world having different objectives and different interests compel us to seriously consider the advisability or otherwise of a Second Chamber.

It must be remembered that those who are in favour of a Second Chamber justify it on the following grounds:—

(1) If there is only one house to draw up or discuss a bill, then naturally great excitement prevails among the contending members during the debate, and the bill, so passed, cannot be wholly free from defects. Hence in order to remove such defects, a Second Chamber is needed. As the bill goes to the Second Chamber after a good deal of discussion in the First, the former is better able to find out its defects. Hence the necessity of the Second Chamber.

(2) As the Legislative Assembly consists of a large number of members, it cannot devote



as much time to the discussion of a bill as a smaller body, which a Second Chamber always can conveniently do. Hence, matters of policy and principle can be better discussed in the Second Chamber.

(3) Some experienced and old men, owing to their particular position or temper or the delicate condition of their health, cannot stand the atmosphere or procedure of the Lower House which is the inevitable outcome of its constitution. So their services can be availed of in the Second Chamber.

(4) While the law is passing through its elementary stage, party feelings are at their highest in the Assembly, and consequently all kinds and classes of interests cannot possibly be kept in view. This defect is, however, removed in the Second Chamber which is free from such atmosphere, and where all kinds of interests can be carefully considered.

(5) If experts attend the Lower House, the value of their advice is lessened, because in it they will be in proportion of only one among hundreds. The Second Chamber, on the other hand, comprises a smaller number of men and therefore here their votes carry more weight and consequently the country can derive greater advantage from their advice. It is evident that

the value of one man's vote in a house consisting of say 400 members will be  $1/400$  only, whereas the value of his vote in the Second Chamber, which reconsiders the Act passed by the first house and which consists of say 50 members, will come to  $8/400$ . Hence, it is more useful to have experts in the Second Chamber, where they can not only serve as members of the legislature but their votes also carry a greater weight.

(6) If there be only one house, the country possesses no formal representative of the people at the time when the general election takes place. But if there be two houses, then the country is always represented by one house or the other, for different dates may be fixed for the election of their members, and such in fact is the procedure in different countries.

(7) If there be only one house, it is not unoften dissolved in order to ascertain the views of the country at short intervals, with the result that the experts whose inclusion is necessary so that the country may profit by their experience, do not take part in such elections to avoid recurring expenses. But in case of the two houses, the life of the second may be fixed to be longer in order to offer opportunities for such men to serve their country. Moreover, by lengthening the life of the Second Chamber we can have the advantage of keeping a body of

experts engaged in helping in the affairs of the Government for a longer time.

(8) A country has various needs, some of which do not coincide with one another; so, if there be only one body of workers, some of the interests of the country have to be overlooked. Hence, two chambers are necessary, so that one sort of work may be given over to one chamber and the other to the second. The same object has been kept in view in the creation of the German Second Chamber. It takes no part in framing laws. Its function is to consider the drafts of the bills to be introduced into the Reichstag and to express their opinion whether they should be introduced there or not. The former also cannot veto any legislative enactment of the latter. Its business is to consider a bill passed by the Reichstag after its first reading, and to inform the government within two weeks if it finds the bill to be in any way objectionable. If it can come to an understanding with the Reichstag, then well and good; if not, the President ascertains the opinion of the public about the draft of the bill. But if the President does not do it within three months and the Reichstag passes the bill for the second time by a majority of two-thirds, then the President shall have either to accept it or to ascertain the opinions of the country about it. This sort

of work which is assigned to the German Second Chamber is highly necessary, but it can in no case be assigned to the legislative body, for the very body which enacts laws cannot supervise its own work.

(9) The Second Chamber serves another purpose in countries where the two departments of Government, the legislature and the executive, are separate, the ministers being neither elected nor under the control of the legislature. In such countries the Second Chamber serves as a connecting link between the two bodies. For instance, in the United States one of the functions of the senate is to review the laws enacted by the legislature and to advise the President in such matters as the ratification of treaties, the appointment of ambassadors and judges and similar other matters.

(10) The tenth advantage of the Second Chamber which is considered to be the most important in the federal form of Government is to protect the rights of the various provinces and states and to prevent the legislative Assembly, which is really the representative of the individuals, from infringing the rights of states. Hence in federal governments, the second chamber is so constituted as to represent districts rather than individuals so that it may watch the rights of districts.

These are the ten principal advantages of the Second Chamber. As it is evident, some of them belong only to particular forms of the Second Chamber and some are general.

From a collective view of these advantages it becomes quite clear that the existence of the Second Chamber can be useful only when it has a purpose; and the objection levelled against it by its opponents on the ground that if it agrees with the first chamber, it is superfluous and if it opposes it, it is injurious, is fallacious. The Second Chamber is neither in conformity with, nor opposed to, the first chamber. It is rather a corollary of it. Hence it is neither superfluous nor injurious.

Three objections have been raised against the Second Chamber in the Montague-Chelmsford Scheme. The first objection is that it will make the work complicated; the second, that capable men will not be available in sufficient numbers to carry on the work of two chambers; the third, that those having special interests will have an unnecessary protection. But none of these objections is sound. It involves no complication of work. Second Chambers are working smoothly all over the world. The question of capable men is of temporary nature. If the need of a Second Chamber is established, it may be started after

ten or fifteen years' time. The third objection is also not sound, because the Second Chambers being of various forms, rules may be so framed as to make it sure that the second chamber may fulfil the work that may be assigned to it without unduly trespassing upon the right of others. Hence, taking all things into consideration I am of the opinion that the Second Chamber is a real necessity and a useful thing and should be established in the Central Government; but it should be based on some principle. It should not be merely a duplicate of the First Chamber so that instead of the first and Second Chamber, we may have only two general chambers with the result that both time and money be wasted for nothing.

As regards the Second Chamber in the provinces, I am of opinion that as the country is not yet fully acquainted with the representative form of government, therefore although the Second Chamber should be provided in the constitution, yet its establishment should be postponed for at least fifteen years after which each local council should be empowered to create, if it so desires, a Second Chamber of its own by a majority of votes. But the rules and regulations, or at least the fundamental principles should be laid down in the constitution.

In the Central Government, however, its need is urgent and so it should be established immediately. But it should not be in the form recommended by the Montague-Chelmsford Scheme but in its true form, of which I will speak when I proceed to deal with the problem of the Central Government.

## CHAPTER IV. THE JUDICIARY.

One of the weakest points in the Simon Commission Report is the recommendation for the transference of the High Courts to the jurisdiction of the Central Government. Their sole argument is that as the High Court of Bengal is under the Government of India and other High Courts are under the respective provincial governments, so to bring them under one system it is necessary to put them all under the Government of India. It is contrary to reason to alter the arrangements of all the High Courts for the sake of a single High Court. It would have been more reasonable for them to recommend that the Bengal High Court should also be transferred to the jurisdiction of the Provincial Governments like all other High Courts.

The Commission's arguments in favour of their proposal is that as the Assam Courts are also attached to the High Court of Bengal, so it must needs be put under the Government of India; and as there is possibility of other provinces coming into existence which may not be able to maintain a High Court of their own, therefore in order to secure uniformity, it is necessary that all the High Courts should come under the Government of India. These arguments are



in themselves weak. If the Assam Courts are attached to the High Court of Bengal, it only means that Assam has to pay a part of the expenses to Bengal. But that is no reason why the High Court of Bengal should be put under the Government of India. In fact, this is not the reason of the High Court of Bengal being under the Government of India. This practice really goes back to the time when the Governor-General was looked upon as the administrative head of the Government of Bengal. Why not then change the old custom which has no reasonableness about it rather than disturb the arrangement of the other High Courts? If different independent countries can distribute among themselves income and expenditure of the Posts, then why should not the two provinces of the same country divide between themselves the expenses of a High Court? But I am not even ready to admit the fact that there is any province which is unable to bear the expenses of its High Court. If the small states of Europe and America can bear such expenses, why cannot the Indian provinces bear them?

It must be remembered that the provincial High Courts are really the parts of the administration of the provinces, and in a truly federal government, they cannot be placed under the

Central Government. The defect of this proposed arrangement becomes all the more apparent, when we consider that the administrative control of all the subordinate courts is assigned to the provincial High Courts. When all other courts of the province will draw their salaries from the provincial treasury, and when their appointments will be made by the provincial authority, they will be considered as subordinate to it. How can the High Court, then, which will supervise them on behalf of the provincial government, be considered as part of another Government? In answer to this, reference may possibly be made to the case of Assam, where the lower courts belong to one Government while the High Court belongs to another. But to this I may say that there is a gulf of difference between a thing done under the force of circumstances and a thing done voluntarily. If circumstances compelled us to do one thing in the case of Assam, then it does not mean that we should make similar arrangement in all cases, where there is no necessity for it. It is an essential condition of real federation that the High Courts should be under the provincial governments. However, I will admit one thing, that as it is necessary for the courts to be free from all political and other influences of the time, the rule should be laid down that when once a person has been appoint-

ed as a judge of the High Court, he should not be removed unless he retires in accordance with the rules and regulations of his service, or unless he voluntarily tenders his resignation, exception being made only in cases when a judge is charged with and proved guilty of corruption or some other similar offence. In such a case, the Governor should, on a resolution passed by at least 60 per cent. of the members of the Legislature dismiss the judge. Great caution is also necessary in the appointment of judges, because on the competence of the judiciary, mostly depends the good or bad name of the Government. It would, therefore, be better if the Ministry have no voice in their appointment, the Governor himself making the appointment after consulting the High Court. And the procedure should be that, whenever the need for the appointment of a judge arises, the Governor should call upon the High Court to recommend a panel of three names for each vacancy. The High Court should then send their panel, selected by a majority of their votes, to the Governor who may appoint any one of the persons recommended. If the Governor finds that a certain community is inadequately represented on the High Court, he should have the power to direct, while calling upon the High Court to send its recommendations, that the proposed candidates must belong to the

community in question. It should further be provided that, when any of the judges thinks that a certain man whom he considers to be a suitable candidate has not been recommended, he may submit his opinion to the Governor in the form of a vote of dissent, which may in exceptional cases receive consideration at the time of appointment. Another reform which appears to me necessary is that a separate Ministry in charge of the judiciary should be set up. All the administrative work relating to the judicial department should be done by, and through the medium of, this Ministry to avoid the occurrence of any divergence between the executive and the judiciary. In many countries there is a Minister in charge of the judiciary. For example, there is, in England, a Minister called Lord Chancellor who controls the judicial department. He not only makes the appointment of the judges but can also dismiss them for misbehaviour. Even the judges of the High Courts are appointed on his recommendation. *Vide* "How Britain is Governed," by Ramsay Muir p. 22.

### **The Supreme Court.**

After making the recommendation that the High Courts should be placed under the jurisdiction of the Provincial Government I would take up the question of the constitution of the Supreme Court. I have already said that the Supreme

Court is necessary. Besides settling disputes relating to constitutional matters, the Supreme Court, which would be a Federal Court, should also replace the Privy Council and hear the appeals of important cases from the High Courts. It should likewise be the final Court of Appeal with regard to Federal laws, the preliminary stages of such cases remaining with the Provincial Courts. There is no need of establishing small Federal Courts in India, as they are in America. The work relating to preliminary stages should remain with the Provincial Courts, appeal alone being preferred to the Federal Court.

As the Supreme Court will have to interpret the constitutional laws also, the appointment of its judges assumes very great importance. A large number of my friends will not perhaps agree with me in my proposal, yet I would suggest that in the beginning at least a considerable portion of the judges should be imported from England. For the first 15 years it may be laid down as a necessary condition that two-thirds of the judges should be appointed by the Crown at the recommendation of the Privy Council, while the remaining one-third should be appointed for the first time by the Governor-General after consultation with the Chief Justices of the various High

Courts out of the judges due to retire between three to five years; and in the future the Governor-General may ask the Supreme Court itself to submit to him a panel—at least three names for each post— from which he may make up the deficiency in that portion of posts which he is authorised to fill up by nominating the requisite number of judges. This, I believe, will settle to a reasonable extent the question as to how and where to get such judges as could be absolutely relied upon. The judges of the former category will, as a rule, be quite dependable, as they would be foreigners appointed at the recommendation of the judicature. Similarly, the latter group appointed by the Governor-General could also be relied upon, appointed as they would be at the Supreme Court's own suggestion and recommendation.

The constitutional cases to be brought up before the Supreme Court can be of three kinds: (1) Cases instituted by the Provincial Governments, or the States if the latter join the Federation. (2) Cases brought up by minority communities or by minor religious bodies. (3) Cases brought up by individuals, companies or trusts. As to the first and second categories I would suggest a bench of seven judges, four of whom must be of these appointed by the Crown at the

recommendation of the Privy Council. Regarding the third, I would propose a bench of three judges without any further restriction. Moreover, the constitution should definitely provide that, if after the lapse of fifteen years 80 per cent of the Provincial Councils, with an absolute majority in each Council, decide that the judges of the Supreme Court should not be appointed at the recommendation of the Privy Council and that they should be appointed in this or that manner, the decision of the Councils shall be carried into effect. I have already enumerated the three kinds of cases that may arise concerning the constitution. The first two categories of cases may relate to the Provincial Constitution or to the Federal Constitution. The former should be decided by the Provincial High Courts and the latter by the Supreme Court.

The Simon Commission says that if the Supreme Court were invested with the authority of adjudicating upon communal issues, that would lead to the increase of litigation. Though only experience can show the truth or otherwise of such conjectures, yet there would be no harm if some restrictions were imposed in this respect also. I believe the following suggestions will go a long way to obviate some of the outstanding difficulties. Firstly, in the case of differences

between the provinces or States and the Central Government, the Governor-General may be approached to effect a reconciliation, but if it be not possible, the parties may be allowed to take their case to the Supreme Court for decision or have it settled by arbitration of the type mentioned in the American Articles of Confederation. Secondly, if the difference is between the provinces themselves or between a province and a state, provided that the latter has joined the Federation, the Governor-General shall try to reconcile the parties by instituting a Court of Arbitration, one arbiter to be appointed by each party, and the third to be nominated by the Governor-General. But if the dispute cannot be composed thus, the parties may be allowed to go to the Supreme Court or the Court of Arbitration mentioned above.

Thirdly, if the complaint be preferred on behalf of some individuals of a community or a religious body that their communal or religious interests have suffered owing to the enactment of a law or bill despite a provision in the Constitution against such a course, then the matter may be referred, within a fortnight of the enacting of the law, to the Governor if the complaint be against a Provincial Council, or to the Governor-General in case it is against the Federal Assembly. If the Governor or the Governor-



General thinks that the enactment in question has really infringed some communal or other rights, he may send back the bill for reconsideration to the legislature concerned, and he should sign it only if he is satisfied that the bill is amended according to his satisfaction; otherwise, he should postpone it till the next election when the bill is to come up again before the new Council or Assembly. If the bill is repassed then it should be signed by the Governor or the Governor-General as the case may be, and the aggrieved party can move the High Court or the Supreme Court, if necessary for an order of repeal. In this way, I believe, many of the political and communal differences will be settled before proceeding to the Supreme Court.

There is left now the question of individuals or communities. Their complaints may pertain either to civil and individual rights or financial matters. No restrictions can be imposed upon the latter, and they must be left to run their own courses. But complaints of the former nature can only be few and far between and so they do not matter much. A discussion of the civil rights of man will certainly add to our knowledge and the country will also gain something on the whole by such suits; therefore there is no need of imposing any restrictions in this respect

The experience of other countries also confirms the fact that such cases are of rare occurrence.

A good deal of what I have said above refers to the central matters, but with a view to dealing with the judicial side at one and the same place, I have dealt here with both matters combined, so there will be no need now to discuss it again any further.

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## CHAPTER V. THE SERVICES.

The Simon Report deals with the future of the services in Vol. II, Part IX. Though the Report allots a separate chapter for this subject, yet in view of what I am going to say, it falls under the heading of 'the Provincial Councils'.

On the report of the Commission recruitment for all departments under the transferred subjects was entrusted to the Provinces, excepting of course the medical department where a part of recruitment was reserved on an All-India basis. The principle underlying this arrangement was said to be that as long as the English stayed here in India, there was need to have English doctors for them. Moreover, during a war much depends upon the medical department, and if a sufficient number of competent medical men were not available at the time of any future war, the whole wartime organisation would be completely upset. Hence every Province was bound to retain some members of the All-India Military Medical Service.

In the reserved departments, on the other hand, recruitment was based on the All-India basis, and accordingly the recruitment for these departments is made even now through the Secretary of State for India. But the number

for every province is fixed by the Government of India in consultation with the provincial Government concerned, and in doing this the Government of India keeps in view its own needs too, for there is no separate recruitment for its services. This method of recruitment is supposed to carry with it a number of advantages *Firstly*, in case of need every officer belonging to the All-India services can be transferred from one province to another without involving any question of the adjustment of individual rights. *Secondly*, in the special areas and backward tracts outside the governor provinces, separate services cannot be maintained and officials cannot be promoted to the higher grades owing to the paucity of funds. Hence the services of All-India officials are, when required, but to such areas and when the time comes for their promotion they can be transferred to governor provinces. *Thirdly*, the Government of India always stands in need of experienced officers for its own offices. Hence if it were to start a separate recruitment of its own, it must be on a very extensive scale to provide itself with high grade officials that it needs. *Fourthly*, if the services were instituted on a provincial basis, and not on an All-India basis, then the officials of the Government of India would know nothing of the provincial

conditions without a knowledge of which the required uniformity between the Centre and the provinces would not be attained.

There is no doubt about the fact that the reasons assigned above are quite weighty in themselves, but despite all this the continuation of the All-India services is not at all desirable. If it is true that the provinces will be given autonomy in the future, the recruitment of all officials must in the nature of things be controlled by the provinces. What sort of autonomy would it be where even the number of posts is fixed by an outside authority. Such a thing may be possible in a perfectly Unitary form of Government, but it is certainly incompatible with the Federal System.

As to the reasons and the needs that have been stated above, I believe some of them will be dispensed with altogether. For instance, in future acquaintance with and knowledge of provincial things will not be much in demand, because all local matters will fall within the purview of the provincial administration, the centre will have to deal with matters which are not local but purely central.

In regard to the special areas and backward tracts, I have already pointed out that the

retention of their separate existence would be an obstacle in the way of responsible government. The question of services itself would serve as an illustration for, one reason urged in favour of the retention of the All-India services is supposed to lie in the existence of these special areas and backward tracts. Rather than impair provincial autonomy for their sake, why not merge all the areas and tracts themselves in bigger entities?

I do not, however, mean that the Central Government should necessarily recruit its officials separately according to its own requirements. It may or may not do so. It can acquire the services of the required officers on loan from the provinces. In both cases there is no need for the All India services, for it can be arranged with the Provincial Governments that they should have a few supernumerary officials so that the services of a corresponding number of officials may be lent to the Central Government on its requisition. This would entail no burden on the provinces as that portion will be taken away by the Central Government. Anyway, this arrangement will only be temporary, for after all in the case of provincial autonomy the Central Government will one day have to start its own direct recruitment. So from now it should start with that object in view. India is a vast sub-

continent, all these changes cannot be brought about in a single day.

It is easy to demand complete independence but a word of mouth cannot change such a vast administration without impairing the whole machinery. Hence changes can of a necessity be effected as yet only in questions of policy, and the translation of it into reality will naturally take a long time.

For instance, the present corps of officials cannot be deprived of their graded promotions. Therefore we shall have to acknowledge their due rights and make necessary provisions to the effect that they may gradually be promoted to the higher grades of the services of the Government of India. Similarly the Government of India in its turn cannot dispense with all its services in a day. Hence such rules and regulations should be devised as would safeguard the rights of the present employees of the Government and for the future recruitment should be made on an All-India as well as Provincial basis, and then gradually the All-India recruitment should be stopped altogether, say in a period of ten years. Similarly the Government of India should do some direct recruiting as well as have loans of services from the provinces until in a

decade or two it should become quite independent of the provinces. I would not enter here into the details as to through what stages this change is to come about, for, that depends on the mutual settlement between the Provincial and the Central Governments, but I must say clearly and definitely that under the Federal principle it is incumbent to get the central services *altogether differentiated from the provincial* one though it should be possible for the Central Government to have a loan of provincial officials, for, even independent states do that. At the same time I want to make it clear that by the provincialising of services I do not mean to suggest that the recruitment in England is to be stopped for good, for despite what my friends may think of it, I believe that for a long time to come we shall need the services of the English officials. What I mean to suggest is that the Secretary of State should henceforth stop making recruitment for the Government of India, but as many English officials as are needed for the provinces should be recruited through the agency of the Secretary of State by the various provinces themselves, and the officials so recruited should be deemed to be provincial servants whose rights shall be made secure in the same way as those of the present All-India services. As the success of the new



experiment is to depend mostly upon the contentment and satisfaction of the service men, provision should be made to ensure that all their rights pertaining to salary, gradation, pension etc are scrupulously safeguarded.

Though the present may not be the proper place for it, but as I may not find another occasion to refer to it, I deem it necessary to state here that if India is to continue as a part of the British Commonwealth of Nations under the British Crown, as I think it must, else I for one shall not hesitate to sacrifice even the strongest of political alliances on this account, then it is necessary that the British element must be retained for a long time to come. At present all the British dominions are either wholly colonised by the British blood, such as Australia and New Zealand, or partly by the British and partly by the non-British elements, such as the Dominions of Canada and South Africa. These dominions can easily maintain their connection with the mother country owing to the ties of kinship and language, but in a land like India which is inhabited by quite a different people from the British, who widely differ from the latter in speech, race, religion and civilisation, it is but necessary that some sort of connection be maintained between the

two in order that free and autonomous India may be in a position to keep alive with her feelings of friendliness towards Great Britain. And the best way to effect it is to retain the services of British officials, otherwise the feeling of being one Empire will never be maintained, and there will be fear of India cutting adrift from the British Commonwealth of Nations which I think will result not in the desired self-government but in conditions as worse as slavery.

It must be remembered that the question of rivalry can only last as long as it is thought that Britain is keeping India in forced subjection. But if by mutual understanding Britain were willing to concede to India full Dominion Status, it would become incumbent upon the Indians not only to regard themselves as Indian, but also to consider themselves as citizens of the British Commonwealth of Nations, and to prize the latter feeling as much as they would prize their Indian citizenship. As soon as this is achieved an Englishman will no longer look upon himself as an alien in India. He too would be proud to serve India in the capacity of a citizen of the country and not as a foreigner.

I am reminded here of an incident worth describing, in order to keep alive the memory of

a person who was a true friend of Britain as well as of India. The friend alluded to, if not regarded as an enemy in his country, is at least no longer looked upon as a friend by most of his countrymen. I mean the late Mr. Montague. When he was in India in 1917 to study the political conditions and to prepare a scheme for the future self-government of the country, he was kind enough to spare an evening to see me, the evening of the same day when the Ahmadiyya Deputation waited upon him with their address. Mr. Robert, M. P., who accompanied him in his Indian tour came out to receive me and my companion at the door and took us in. He was present there during the whole of the conversation that passed between us, and possibly he may still remember it. The first question by Mr. Montague on receiving us was as to who had drafted the memorandum submitted by the Ahmadiyya Deputation. I told him that I wrote it out in Urdu, while it was afterwards translated into English. He said that the first thing he did after receiving the deputation was to ask Lord Chelmsford for any book in his library dealing with the Ahmadiyya Movement, for he had become so much interested in it.

There upon His Excellency the Viceroy sent him a book which he was busy reading when we

called on him and he showed me the book which I think was a copy of the Ahmadiyya Movement by Mr. Walter of the Y. M. C. A. Then he expressed his desire to talk about the Ahmadiyya Movement, but before doing so he said, he wanted to point out one mistake in our address which was to the effect that we had written that Indian Railways had foreign capital invested in them while as a matter of fact the investment was confined to the British and the Indians. I said, was not British capital a foreign capital? Whereupon, Mr. Montague remarked that he at least regarded the British and the Indians as one and did not regard any of them as foreign as opposed to the other. I saw that his tone was deeply affected, and there was a ring of sincerity about that tone. I was so deeply touched by these few words uttered in so sincere a tone, that I still find them ringing in my ears. I had with me at the time Ch. Zafarullah Khan, B.A., Bar-at-Law a member of our community and at present a delegate to the Round Table Conference, who acted as my interpreter. He, too, must have been touched by Mr. Montague's words, but in my memory they are still so fresh that I do not think I will ever forget them. Whenever I now have an occasion to look at any English paper where Mr.

Montague is held up to criticism owing to his alleged responsibility for causing Indian unrest, and where he is even branded as a man without a nationality, I am always reminded of that incident and I am painfully surprised at the limited and defective nature of all human knowledge. He, who in one brief sentence disclosed the great depth of his heart, who could not bear the very idea of the Indians regarding the British as foreigners, and who wanted to graft the two nations together by ties of mutual love so that they become branches and fruit of the same tree, is being dubbed by his own countrymen as the enemy of the British Nation. There are some people whose work is not recognised in their own day, but the coming generations appreciate them at their true worth. Such was Mr. Montague. There were many Indians at that time who regarded him as a clever diplomate who had wheedled them out of their due rights, and there are a good many English people who entertain similar adverse views against him. But most of the Indians have realized their mistake, and the time must come when the Englishman, too, will not withhold his due meed of praise for him.

Anyway, by relating this incident I want to emphasise that if any value attaches to the

British Commonwealth of Nations, and if the Indians realise the necessity of becoming links of the same chain, then surely it stands to reason that the Indians should realise the true value of the British connection just as Mr. Montague realized it and expressed his realisation before me. It is then and then alone that the great objective of the union of the distantly located units of the Empire can be realised, a union which does not merely stand for the combination of a few nations against others, but as a nucleus for the bringing of all the nations of humanity together. I do not mean to say that every Englishman realises its import nor can I say that even one Englishman realises it. I am just explaining to my readers the divine gesture in this conglomeration of nations. Hearts may be empty of the desire for the realisation of that great objective, and minds may be forgetful of the import of all this, but a divine impulse is pulsating the nations and drawing them along in that direction. It is for those enterprising great souls who can see the divine hand at work behind all that is happening to control the apparently aimless flow of this current and dam it in a way as to convert it into a great waterfall which can be turned to a good account as a

limitless reservoir of electrical energy in the interests of mankind as a whole. Would there were one to understand what I say!

Some one may regard me as guilty of degres-  
sion, but I am not. It may be that some people  
cannot follow me in the workings of my thought,  
but what I am driving at is that if we are to  
become real citizens of a Commonwealth of  
Nations, then we shall have to change our view-  
point with regard to the conception of nation-  
ality. We shall have to discard that narrow  
nationalism in favour of a wider citizenship,  
and as long as any new form of union does not  
come into being we ought to retain a consider-  
able number of English officials with us, living  
as our fellow-workers, brethren of a wider  
nationality and not merely as Englishmen.

It is possible that some people may think  
that all this is due to an outburst of Islamic  
spirit which is always impatient to break  
national barriers in its effect to realise a  
universal brotherhood, and which as such will  
leave cold all those who are inspired with national  
partiotism. But they should bear in mind  
that what I have written is the only solution of  
all our ills. Disregard this and there will be no  
Indian nationality whatsoever.

## CHAPTER VI.

### THE CENTRAL GOVERNMENT.

After having dealt with the Provincial Governments, the judiciary and the services, I now take up the question of the Central Government. Though the question of the Central Government, whether federal or unitary, comes only next in importance to the question of the constitution of a country and is certainly more important than that of the government of the component parts, yet as most of the matters which are common to the centre and the provinces have been already discussed, I believe my task has become very much lighter. I shall not have to say much about most of the matters regarding which a mere reference should now suffice.

The Simon Report, after recognising that the ultimate Constitution of India must be federal, has referred to the fact that the true process of *federation is that the various units or the component parts should jointly frame a constitution for the whole of the country.* Federation itself means that its component parts should set up the Central Government. Hence so long as self-government is not established in the provinces of India, Central Government cannot evolve on the right lines.



The Commission says, "The conception of the evolution of India into a federation of self-governing units has certain important effects on the degree to which changes in the structure of the Central Government can be made now. We have already indicated the need for a reconsideration of the boundaries of the present provinces, and we have expressed our hopes, that at some future time the Indian states may adhere to all-India federation. We are therefore faced with the situation that we are trying to federate elements, some of which have not been finally delimited, while others have yet to express their willingness to enter. But even if we were to ignore the Indian States and were to rest content with the provinces at present constituted, the necessary conditions for bringing a fully federal constitution into being are not yet present. The provinces must first become political entities." (Vol. II, p. 19).

As a principle, it is quite right and true. If we admit that India should have a federal form of government, we shall also have to admit that the form of the Central Government must be determined by the provinces themselves. According to this principle, instead of framing a scheme for the Central Government, we should wait for the day when the provinces gain their complete independence and then jointly decide as

to what should be its form, its powers, and its relations with the self-governing units. But if we keep in view the fact that the Indian Federation is not being evolved on the lines on which federal constitutions are generally brought into being, the principle enunciated by the Simon Commission does not carry much weight. To follow the usual method we must first of all dismiss the present government of India and establish separate provinces not connected with any centre; and when they become fully self-governing entities they should be called together and consulted as to the principles on which they would like to enter the federal union. A new scheme should then be framed according to their decision in order to establish the Central Government. But in this scheme there is a danger also *i.e.*, the provinces might not like to enter the federal union, in which case they would have no Central Government at all. But would any sensible person think that it would be a wise thing to do? *Could it be useful in any respect?*

We may as well ask the authors of the Simon Report whether the powers which they have now given to the provinces are the same which every self-governing institution should possess, or they have given them only very limited powers which are even less than those enjoyed by the various states under the

U. S. A. Why has the Commission not given full autonomous powers to the provinces? Is it not because they shall be vested in the centre; and has the Commission not unconsciously thus prepared a constitution? The Commission cannot say that it is a temporary arrangement, because in the scheme itself nowhere has it been provided that at some time the provinces would have the authority to assess their own taxes or establish their own Post Offices or Railways. Instead of promising the provinces any such powers, the Commission has deprived them of a portion of the powers which they already possessed, e.g., the administration of the high Courts. In short, when they meet, according to the scheme of the Commission, after 10 or 20 years for consultation, what would the provinces do? Would they part with some of the powers already vested in them? Their powers are already very limited. Would they meet to take some more powers from the Centre? Why are not then those powers handed over to the provinces just now, because, according to the principle of federation, all the powers in reality reside with the provinces, or would they gather together only to confirm the state of things obtaining at that time? If this be the case, it is evident that the constitution has been already determined and there is

no use of the provinces gathering together for this purpose. In short, the ordinary procedure in federation may be the one described by the Simon Commission. But in India the new form of government is to be evolved out of the already existing government, hence no valid objection can be made against the procedure that we should simultaneously prepare a scheme for the provinces as well as the centre, It is rather necessary in the case of India, because if the Central Government is left out of Consideration and no scheme is prepared for it, the provinces would think that the powers of the Central Government are temporary and that they will remain in force only so long as the Governor-General is vested with all powers. On the other hand, the Assembly would gradually gain power and try to appropriate all the powers for itself, and then neither Great Britian would be able to come to the rescue of the provinces, nor shall the provinces have power enough to get back their rights from the Centre. The result would be that unconsciously the Federal Government would assume the shape of a Unitary Government, at best it would be after the model of the South African Government, which would never be accepted by the Muslims, nor in my opinion by the Englishmen residing in India. Hence the constiution of the Central Government must

be decided just now, so that the minorities may have the satisfaction that their rights are no longer in danger, that in future when the question arises of the form of the Central Government, their rights would not be trampled upon.

While I am against the postponement of drafting the Central Constitution to some future occasion, I am also alive to another danger which cannot be overlooked. It is this. At the grant of Autonomy, the provinces as well as the centre will naturally get occupied in putting each one's house in order. Neither will the Centre be able to see that the provinces are discharging their duties properly, nor will the provinces be able to watch the activities of the Centre with a view to preventing it from usurping any of their powers. The result would be that either the Centre would one day be surprised to find that the provinces have usurped all its powers, or *vice versa*. We must not forget in this connection that a mere letter of the law is of no use without there being some practical illustrations provided by its application and use. Hence it is essential that the application of a law should be very carefully watched in the beginning, so that there may not be left only the letter of the law while its spirit gradually becomes defunct.

In view of the above, I should admit

that although a federal constitution should be framed immediately, it should not be enforced for the present. The supporters of the federal form of government would be well advised not to hazard their goal by ignoring this point in their present enthusiasm. They should first fully establish the Provincial Governments on new lines; and when the provinces begin to work smoothly and get a few years' start, the Central Government should be given powers and that also gradually.

I do not mean to suggest that all the recommendations of the Simon Commission regarding the Central Government should be accepted or that the present system should continue, for, if on the one hand it would be against the principles of politics to set up the federal form of government before the provinces have become fully autonomous, it would on the other hand be impossible for the provinces to attain full and complete autonomy unless a suitable environment is created for it.

If there is a Central Government which has no sympathy with the federal system which is our objective, and if there are no set lines fixed for the development of the system on federal principles, it would become impossible to establish a federal government in India, and it is just possible that the autonomy of provinces may also

be in that way endangered. It is therefore absolutely essential that the Central system be framed and run in a way in which provinces may find facilities to attain complete autonomy, and the lines of the federal government be chalked out in a manner which may facilitate the automatic development of the system in future.

## 1. THE INDIAN DOMINION GOVERNMENT.

In order to attain this object, which consists in the setting up of the Government of India on federal lines and in the elimination of danger to its full and right development in respect of attainment of self-government, the best plan in my opinion would be to decide immediately that India would have Dominion Status, and to decide also about the basic constitution which it is to have, but those minor details, the time of whose decision has little bearing on the real question of federation, may be left for the future, a temporary system of government being adopted in the meantime to satisfy the present requirements. And then as the province progress towards the realisation of complete autonomy, the Central Government may be given further powers under the already settled principles of federation. A federal form of government would thus potentially come into being immediately, whereas its practical establishment would be gradual.

To realise the above object, the draft put before the Parliament after consultation in the Round Table Conference should clearly state that India shall be immediately raised to the Dominion Status so far as the theory and the principle goes, but that practically the Dominion form of government will come into being gradually, and that this gradual growth will be controlled by certain conditions. And then such safeguards and temporary limitations may be enumerated as may be considered necessary for the transitional period, keeping in view that the completion of the provincial system of government precedes that of the Central.

In short, it should be immediately declared that India has been granted full Dominion Status in principle, although necessary safeguards may be mentioned along with it, as well as the lines on which future development shall take place. It should not be thought that when in practice neither the central system nor the provincial one has been fully established, such a declaration is useless, for, the attainment of an object in principle helps a great deal to attain it in practice. The state of a person who simply gets a promise from some one to be given a landed property is vastly different from that of an orphan, who actually possesses a property though it may be



under the management of another. As regards the management of the property, both are equal, i.e. one who has only a promise to get a property and the other an orphan, but in fact the former cannot be called a landlord simply on account of that promise, while the latter is as good a landlord as any one in actual possession of property. If a declaration is not made to the effect that India has been granted Dominion Status, the Indians will continue to waver between hope and fear, even though they may get a good deal of freedom. But if this declaration is made, then however limited freedom India may be granted, the present struggle for freedom will come to an end, and there would remain only the question of internal settlement.

A plain difference which every one can understand is that after such a declaration, India's connection with the British Parliament shall end, just as is the case with the other dominions, and the responsibility for further progress shall devolve on herself in accordance with the instructions contained in that declaration; or perhaps a few matters may remain to be settled between the Indian executive and the British Ministry, and there shall in future be no need for any Act of Parliament or the appointment of any Royal Commission.

In short, the federal structure of the Central Government of India should be constructed now, and a declaration granting Dominion Status to India should be made immediately. It will, in the first place, set at rest the present unrest, and in the second place reassure the minorities. It will also bring about the following changes with regard to the statutory status of India:—

1. The British Parliament shall have decided finally that India is quite free within the Empire;
2. The autonomy of the provinces will be recognised;
3. The right to decide the future constitution of India will be transferred from the British Parliament to the Indian provinces, which will ensure the freedom of India even in practice.
4. The struggle for real independence, which in fact consists in the putting in order of internal affairs, will proceed unhampered, there being no longer any danger of interference by any other power.
5. Indian delegates will be able to take part in the Imperial Conference in their own right.
6. The connection of India with the King-

Emperor will be through the Ministry instead of being through the Parliament.

7. The office of the Governors and the Governor-General will become constitutional.

8. The progress of India on free and independent lines will not depend upon the pleasure of an outside power, but she will be free to advance under its own constitution, and no British or Indian officer will dare impede her advancement, all moving, willingly or unwillingly along the fixed path.

9. The Governor-General will not be future in the representative of the British Ministry but only of the King-Emperor; and as long as the Indian Ministry is not made responsible to the Legislature, he will communicate with the Secretary of State not in the capacity of a deputy but as a representative of India, and even this will be discontinued when India practically attains to full responsible Government.

In short, though the aforesaid declaration may not result in India getting the fullest measure of freedom enjoyed by the dominions, yet she will get a number of important and fundamental advantages and all impediments to her further progress will be removed.

### • **Constitution.**

The decision that Dominion Status has been conferred upon India should be followed up by the formulation of the Constitution, which will serve as a basis for the Federal Government of India. It will not be right to say that this decision cannot remain binding on the country for ever, because, it happens everywhere in the world that, under the pressure of a necessity, some people collaborate and arrive at a decision, which becomes the constitution of the country for the future. The Constitution of America was similarly framed, by some men, who were not even the true representatives of the people in the sense that they were not elected by a majority of votes for that specific work. But the constitution, so framed, has been working quite satisfactorily to this day and is a source of pride to the Americans. It was due to the fact that although *the framers of the constitution were not the elected representatives of the people of their time*, yet, while framing the constitution they honestly ascertained *the real needs of the country* and framed a constitution which could fulfil those needs. Hence, though they were not technically representatives of the people, they became their true representatives by faithfully expressing their

views. Again it is worthy of note that although a constitution binds the country for ever, yet in accordance with the prescribed conditions there is always room for change and improvement. Therefore, if it is subsequently found to contain any serious defect, the people of the country can always rectify it. So a constitution cannot prove injurious to the country. But it can certainly be of great advantage by opening a way to the people to make progress without any embarrassment and difficulty. It has been experienced all over the world that it is better to have a defective programme than to have no programme at all. In view of the above, it is necessary that a constitution be now prepared for India. I have already discussed at length the subject of the future Constitution of India in the first part of my book, so I need not enter into details again. Here I shall only briefly refer to the provisions which must be included in the constitution:—

(1) The principle of government should be that of Complete Federation, that is, all the powers should be vested in the provinces, excepting those which are expressly delegated to the Central Government, and which must concern only those matters which have an All-India nature.

(2) The Legislature should consist of two Chambers. But they should not perform the same kind of work. The Second or the Upper Chamber must serve the purpose for which it is meant to be retained, that is to say, one should represent the people and the other territories.

(3) It should be laid down in the Constitution that neither the Central nor the Provincial Governments shall put any restriction whatever on the practice, preaching, and teaching of religion and on matters relating to religious conversions.

(4) No limitation shall be imposed upon the language, culture or the food of any class or community.

(5) No discrimination shall be made in dealing with the different provinces or with the different communities or with their members.

(6) The personal law of a religion if any shall not be interfered with, excepting when the followers of a religion themselves want to have some parts of their personal law recognised and enforced through the Government of the country.

(7) Steps shall be taken to give, as far as possible, due share of the Government posts to Hindus, Muslims, Sikhs and Christians according to their numerical strength, and no law shall be en

acted with a view to deprive the members of any community residing in India, of any employment or of any work under the Government.

(8) No law shall be enacted with a view to conferring special privileges upon any individuals or community or to encroach upon their rights.

(9) Separate electorates shall not be abolished for the next 25 years, unless 80 per cent. of the elected members of the community, which is benefitting by it should apply for its abandonment, subject to the proviso that the application should be made by 80 per cent. of the members of that very house for the election of whose members the abolition of separate electorate is sought.

(10) That none shall be entitled to split up or join together any of the parts which have once been admitted into the membership of the federation, unless the parts that have to be separated or joined together agree to it.

(11) If Sindh, the N. W. F. P. and Baluchistan are not given full provincial autonomy before the inauguration of the new constitution, it should be laid down in it that these provinces shall get full autonomy like the rest of the provinces, within the first 5 years, and that if the Central Government do not arrange for it within the pres-

cribed period, no law of it shall be considered as valid until it fulfils the above condition, for in that case its constituent parts which gave it powers will not be free to give their votes.

(12) That a schedule shall be prepared enumerating the personal rights of individuals with which Government shall have no right to interfere except under the established law of the country. For instance, it should be laid down that no individual shall be deprived of his property; that no citizen shall be deprived of his right to vote; that no citizen shall be deprived of his freedom and that no citizen shall be arrested for any act or omission done before a law has been enacted declaring it to be criminal.

(13) That the Central Government shall at no time and in no case deprive any province of its internal autonomy either wholly or partially or do anything that may adversely affect its autonomy.

(14) That any law enacted by the Central Government with regard to matters about which it has been given no power shall not be valid and that about such matters only the laws passed by the provinces shall be enforceable.

(15) That the decision of the Supreme Court with regard to the constitutional law of the



Central Government and that of the High Court of a province with regard to the constitutional law of the provincial government shall be final; and that if the central or the provincial government have any objection against such decision, the only course open to them will be to make an amendment of the constitutional law in accordance with the conditions governing such an amendment.

(16) That no change in the constitution shall be valid unless it is effected in accordance with the prescribed conditions governing it.

(17) That no interference shall be made with the building of the places of worship, the setting up of Anjumanis or other organisations for religious work, religious institutions, endowments, etc.

The above list only refers to matters which have been discussed above in this book. There are many other things which shall have to be included in the Constitution. But that is the work of experts who can settle the details after a thorough discussion of all points.

I should add, however, that two points must be borne in mind while determining the powers of the Central Government:—

*Firstly*, the powers at present enjoyed by the Central Government should not be retained in the

new constitution, for they are too many. A middle way should be found between the powers of the central government as laid down in the American Constitution and those laid down in the Nehru Report. The former gives too few, and the latter too many powers to the Central Government.

*Secondly.* Civil law is at present under the Central Government. The Nehru Report also proposes the same arrangement. In federal governments, however, the Civil law is mostly under the states, *i.e.*, the provincial governments. Civil law is really a mirror of the civilization of a country, and it is the difference in civilization which is the real cause of the adoption of the federal form of government. Hence reason demands that the civil law should be entrusted to the provincial governments. But as at present there is only one law for the whole of India, therefore it will not be advisable to make any immediate change in it. Hence, instead of wholly transferring the civil law from the central government to the provincial governments, it should be laid down that legislation with regard to marriage, inheritance, divorce, etc., or what is known as personal law should belong, not to the Central but to the provincial governments and similarly that portion of the law about which

there are various usages in various provinces should be excluded from the powers of the Central Government. In that case, the government will, in the first place, prefer not to interfere in the personal law at all, but if on the motion of a class or community it will do so, the legislation shall affect a particular province only and therefore the needs of the people of the province will of necessity be fully taken into consideration.

### **Changes in the Constitution.**

Just as it is necessary to draw up a constitution to safeguard the rights of minorities and the provinces, similarly, the rules for changing the Constitution are of great importance to them as well as to the country as a whole. They are of importance to them because if it be quite easy to effect a change in the constitution, it becomes of no use to them at all. Similarly, these rules are of importance to the country as a whole, because if to effect a change in the constitution be too difficult, the country sometimes finds itself unable to provide for many of its needs, and consequently the advancement of the country is checked. So, while drawing up a constitution, both these facts should be taken into consideration. and effort

should be made to keep it free from both these defects.

I think the purpose can be best served by adopting the following safeguards:—

1. Any change which is likely to affect a particular province, for instance, a territorial change, be it in the form of increase of area or its decrease, should be effected only when each of the Houses of the Central Government agrees to it with an absolute majority of two-thirds; provided further, and this provision is most important, that the council of the province affected also agrees to such a change with a three-fourths absolute majority.

2. If the change proposed does not affect the rights of any particular province, but of all the provinces, then such a change should be effected in the constitution only when an absolute majority of two-thirds in both the Houses of the Central Legislature as well as absolute majorities of two-thirds in at least two-thirds of the provincial councils agree to this change. But it should be further laid down that the change would be valid only if, according to the above-mentioned conditions, the provincial councils agree to such a decision of the Central Legislature within two years from the date of the said

decision. If the provincial councils do not declare their agreement with it within that time, then such a decision should be deemed to be not valid. The question of the change can, however, be reintroduced in the next Assembly but not in the existing one.

3. There must be some parts of the constitution about which it should be definitely laid down in the constitution that no change shall be effected in them under any circumstances; such matters for instance, are:—the freedom to practise one's religion, the freedom to change one's religion, the freedom to propagate one's religion; the freedom with regard to language; freedom for organising associations for religious and communal well-being, etc., etc. Similarly, there is the question of our connection with the British Crown with regard to which the Indian Government should have no power to come to any decision independently, such decision being valid only if effected through an understanding with the British.

4. Those matters, for the change of which special provision has been made in the Constitution or for which limitations have been laid down in it, should be given preference to the general laws.

5. No law whatever should be enacted to effect a change in the Constitution before full self-

government has been granted to Sind as separated from Bombay, to North-West Frontier Province and Baluchistan and their views are ascertained about it.

I think if these rules are accepted, then it will neither be so difficult to effect a change in the constitution as to hamper the right progress of the country, nor will it be so easy as to prejudice the cause either of the minorities or of the provinces.

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## **CHAPTER VII.**

### **PROVISIONAL FORM OF THE CENTRAL GOVERNMENT.**

It has been pointed out in the foregoing pages that neither the existing circumstances in India permit that the system of full self-government should be immediately introduced in the Central Government, nor is it desirable that it should be so introduced until the provinces have acquired full control over the respective affairs of their own jurisdiction under the new system. I shall therefore now give my views as to the principles on which the form of provisional Central Government should be based. In my opinion the following points should be kept in view in deciding about laws for the provisional government.

(1) The Central Government should be based on such principles that, instead of being compelled to replace it at any time in future by an entirely new constitution, we may be able to bring the provisional system to perfection by making gradual alterations in the same. When an entirely new system is set up, it invariably embodies various kinds of defects, which require a long time to be removed. But there is no such danger in making gradual changes and alterations in an old system.

(2) We should also have it in view that whatever system is adopted it should lead to the gradual training of the Indians so that whatever full self-government is granted to India they may be in a position to run it.

(3) We should take care to so frame the laws of the provisional government that it may prove accessory to our real and permanent scheme.

(4) We should be careful not to take any step which may give the Indians a lesser share in the Central Government than they enjoy at present, for such a course will cause unrest in the country and create uneasiness in the minds of men and will hamper the realisation of the object.

In view of the above considerations it will be advisable to adopt the following provisional scheme for the Central Government.

### **I. The Governor-General.**

In a dominion form of government, the Governor-General forms the pivot round which the governmental machinery revolves, for owing to his being the representative of the King-Emperor, he symbolizes that bond of union which is signified by the word 'British Empire'. Whereas in those dominions which having passed through the various stages in their constitutional progress, and



have finally attained complete autonomy, the position of the Governor-General is merely constitutional in India, as it will take some time before full responsible government is conferred on the Central Assembly, the reserved rights will naturally vest in the Executive. And the Governor-General being the head of the Executive as well as the representative of the King-Emperor these rights will be used in his name. But as with the conferment of the dominion status upon India, his position will have changed into a constitutional one, his powers should, in my opinion, be divided into three kinds: (1) Permanent powers. *i.e.*, those powers which will continue to be vested in the Governor-General even after all parts of India have attained full dominion status. These powers will be the same as exist in the case of the Governor-Generals in other dominions and will be subject to the same restrictions; (2) Temporary powers, such as those relating to the issuing of ordinances, and to the appointment of ministries and those relating to interference with their work. These powers will be transferred to the Assembly when it attains full responsible status and (3) Such temporary powers relating to provincial matters as it might be deemed necessary to be vested in him for some time to

come. These powers will finally either cease to exist or they will get transferred to provincial councils but never to the Central Assembly. This last condition is important and must be scrupulously watched as otherwise it is possible that as the Central Assembly gains in power, these powers along with the powers which will be transferred from the Governor-General to the Ministry responsible to the Assembly might be appropriated by the latter with the result that the very Federation of the country may be jeopardised.

There may be some who will feel inclined to object to the special powers of Governor-General relating to ordinances, etc., characterising them as a relic of barbarity and urge their immediate abolition. But I cannot subscribe to that view. When Ireland attained her independence, there were certain politicians in Ireland who, thinking it to be *contrary to their sense of dignity* as Irishmen did not participate in the preparation of the agreement with England. Afterwards to prove the worthlessness of this Agreement they caused serious disturbances in the country such as had no parallel even in the pre-agreement days. The same thing may happen in India. Those who are now opposed to the Round Table Conference, may find them-

selves inclined to cause similar disturbances in India, and unless to cope with that emergency, special powers are provided before hand, it would be difficult to deal with the situation. It is, therefore, of the utmost importance that until such time as India has attained full Dominion Status, the Governor-General should possess such exceptional powers as may be necessary to deal with such emergencies as indicated above, otherwise whatever measure of freedom be conferred on India, its enemies will not fail to wreck it:

It should also be borne in mind that from the moment England announces the grant of dominion status to India the British policy with regard to India will undergo a radical change. Thenceforward, England will be bound in her own self-interest to send out such Governors to India as will try to guide the latter to her destined political goal, otherwise she will not be able to gain that goodwill of India which it will be so much to her interest to gain.

## II. THE LEGISLATURE.

At present there are two legislative bodies in the Central Government, *i.e.*, the Legislative Assembly and the Council of State. It must be ad-

mitted, that the Council of State in discussing the bills submitted for its consideration naturally delays them somewhat in their passage through the Legislative Assembly and in being enforced as laws, thereby affording an opportunity to the people to make a protest against any measure that may appear to them to be objectionable. But it fails to afford protection to the principles of federation. Similarly the Legislative Assembly neither serves the purpose of affording the necessary training to the Indians nor does it satisfy the country, and hence it is necessary that both the Houses should be reformed in a manner that will make them answer the purpose for which they have been constituted. Touching the question of the Assembly the Simon Report says that, (1) under the future constitution the Legislative Assembly should be called the Federal Assembly, (2) that its membership may be raised to 250 or 280, (3) that the members instead of being elected directly should be elected indirectly, *i.e.*, they should be elected by the Provincial Councils either out of their own members or from among the general public, provided always that every member so elected is a voter of the Provincial Council, (4) that this election should be conducted on the principle of proportional repre-

sentation, (5) that a member of a Provincial Council elected to the Federal Assembly will not cease to be a member of the Provincial Council, but he can, if he so chooses, work in both; and (6) that the expenses of the members would be borne by the provinces and not by the Central Government.

The reasons which the Commissioners assign for the above changes are: (1) that notwithstanding the recommended increase in the membership of the Federal Assembly the constituencies will be so large that it will be difficult for the members to keep themselves in close touch with their voters; (2) that in accordance with the federal principles, it is essential that the representation in the central body should be made through the Provincial Councils; (3) that an average Indian cannot efficiently watch the workings of the Central Government, but if the members to the Federal Assembly are selected and returned by the Provincial Councils, the former will naturally think that their work is being closely watched by their electors.

It is a good recommendation of the Commission to change the name of the Legislative Assembly into Federal Assembly for that would make the people remember that henceforth the Government of the country will be conducted on Federal prin-

ciples. In my opinion the membership of the Assembly should also be raised. But I would fix it at 300 at the lowest. This number is in no way large as in many countries smaller than India we find Assemblies comprising even a larger number than this. In the case of India a smaller number will not adequately represent the country. The membership should therefore be 300 or 350 if not larger. And further all members should be elected excepting the executive councillors who should be ex-officio members, until the executive is made responsible to Legislature.

The proposal of the Simon Commission that the salaries and expenses of the members of the Federal Assembly should be given out of the provincial budgets, is not, in my opinion, a sound one, and the practice, so far as I know has no parallel in other countries. Although the Commissioners make these items non-votable yet the fact that these expenses are borne by the provinces and not by the Centre is calculated to rather lower the dignity of the federal members. Even apart from this consideration, it is but reasonable that like the members of the Central Executive, the salaries and expenses of the members of the Central Legislature be paid by the Centre. It is both unnatural

and inconsistent that while working at the Centre they should be paid by the provinces.

Now I come to the most important question in this connection, namely, the indirect election of the members. Some people finding this method of election to be opposed to the usual practice obtaining in other countries, are filled with surprise, and are unable to account for it, except by supposing that this novel plan has, perhaps, been proposed by the Commissioners in order to accommodate the Europeans whose percentage of membership they have fixed at about 150 times more than their numbers would warrant. Europeans being very small in numbers may not even find suitable members to fill the number of seats, so enormously raised, in the Federal Assembly as well as the provincial councils hence the novel scheme of allowing a member to sit both in the Federal Assembly and the Provincial Council.

The critics say that the Commission has thus removed the difficulty in the way of the Europeans by allowing the members to work in both the legislatures. But I do not think they are justified in imputing motives to anyone. There is no doubt however that this strange procedure is *not only contrary to reason, but also contrary*

to the experience of the world. The reasons which have been advanced in its support are all feeble.

The first reason which the Commission has put forward is, that, in the direct method of election, the constituency becomes so big that the members cannot come in touch with the voters, and so there arises much difficulty in election. It is undoubtedly a fact that the constituency for the Assembly is a large one, and that it is also comparatively difficult to carry on a propaganda in a big constituency, but it must be borne in mind that a big country must necessarily have comparative constituencies, but no people can be deprived of their legitimate rights merely on the plea of a big constituency. The Commissioners should not have looked to the constituencies of England only, it should have also considered those of the big countries as well. Take for instance, the case of the Australian Commonwealth. It comprises an area of about 29, 74, 581 square miles with a population of 54,35,000. Its Assembly consists of 75 members and its senate 36 members. In other words every one of the Assembly members represents an area of approximately 27,980 square miles and a population of 75,000 men; and every one of the Senate members represents



1,50,000 men extended over an area of 55,000 sq. miles. Similarly the United States of America cover an area of 30,26,979 sq. miles with a population of 10,50,00,000. Its House of Representatives consists of 435 members and its Senate 96 members. Thus every member of the House of Representatives represents an area of about 7,000 sq. miles and a population of 1,74,000 men while every Senator represents about 30,000 sq. miles and 30,00,000 men. Compared with this the total area of India is 18,05,000 sq. miles, and if the area of the States and agencies be excluded, there remains an area of 10,41,000 sq. miles. The population of British territory, excluding of the States, amounts to 24,66,00,000. But Burmah which is to be excluded from India, comprises 2,30,000 sq miles. with a population of 1,31,00,000. Hence if Burmah is excluded from India, the latter will have an area of 8,11,000 sq. miles, with a population of 23,35,00,000 men. Now if the Indian Legislative Assembly be supposed to comprise 300 members, then every member represents an area of 27,00 sq. miles and a population of 7,78,333. This means that every Indian member would represent only  $\frac{1}{10}$  of the area represented by each United States Member and  $\frac{1}{10}$  of that represented by the Australian. But in respect of population every member of the Indian

Assembly would represent a population 4 times as numerous as that represented by the United States man, and ten times as large as that represented by the Australian. Thus in respect of area, the United States representative and the Australian represent a more extensive area than does a member of the Indian assembly, while in respect of population, the Indian member represents a much larger number of men than either the Australian or the United States man. But it is evident that real difficulty lies in the vastness of area, otherwise, a member neither does nor can personally approach every voter, all that is necessary is that he should be able to keep in touch with the leading members or representatives of the constituency, and it is evident that the smaller the area, the easier will it be for a member to make a tour in it; and in this respect the Indian member will have an advantage over the Australian and the American Member.

Again another reason which the Commissioners advance in favour of a change in the present system is that a member cannot maintain his relations with the people of his constituency. But the question is how is he able to secure votes in his favour if he cannot maintain relations with the voters? If he cannot do so,

the voters living in remote areas should give him no votes. But we find that each candidate is able to secure votes from every locality. To explain this, it may be said that he enlists for himself the sympathy and assistance of the influential men of the constituency. That is true, but in this case one who is against the indirect method of election may observe that if a man can secure for himself the sympathy and assistance of the influential men of his constituency having direct connections with one or two thousand of such men who lead the votes of the country, is he not better than a man who has connections only with ten or twelve members of the Provincial Council? He may say also that the elected member generally belongs to the same constituency which he represents and as such he is surely acquainted with a considerable number of voters of his constituency and has many opportunities to come in contact with them; but if a member elected by the Council is not from among the members of the Council, he will have no opportunities to make acquaintance with them. A representative of Amritsar will very often have opportunities to meet the voters of Amritsar, but while working in Simla or Delhi, he will have few opportunities to come in contact with the members of a Council that holds its sittings at Lahore. Similarly, a member from Multan may

not be able to go about seeing the voters of the district, but he will at least be able to meet with those of the Multan city daily and with those other people of the district also who will have occasion to come to the city on some business or other. On the contrary he might fail to meet with those members of the Council who elected him even once a year, or he might possibly fail to see them altogether throughout the term of the Council. Again a member from the Punjab may have some opportunity to meet his electors at Simla where both the Assembly and the Provincial Council hold their summer session, but members of other provinces while engaged in their work at Simla or Delhi can have no opportunity to come in contact with members of the local councils of their provinces.

In short, the argument advanced by the Commissioners on the ground of connection and contact goes against [them and not in favour of them. A member of the Assembly elected by indirect voting will have no connection either with the constituency to which he belongs or with the members of the Council who elected him.

The Commissioners further argue that when the Government is based on federal principles,

the members must represent areas and not individuals so that principles of federation may be safeguarded. I admit that this argument carries weight. Those who have to guard the principles of federation must be present at the centre; but method devised by the Commissioners to effect this purpose is not followed anywhere in the world. Members of the First Chambers are everywhere elected by the country. There is no such federation in the world, the members of the First Assembly of which represent provinces. It is true that in the U. S. A. members of the Second Chamber were elected by the councils of the various states till the year 1913; and the indirect method of elections still exist in some of the Cantons of Switzerland; but it is so only in the case of the Second Chamber and not the First Chamber. However in the case of India the Commissioners recommend, contrary to the universal practice, that the First Chamber should be made the representative of provinces and not of the people. But this as explained above is against the principles of federation which demand that there should be representation of both parts in the centre, the First Chamber being representative of the people through direct election and the Second of the provinces.

And to effect this there is only one way all

over the world, *i.e.*, to make the Lower House, which has more powers, the representative of the people, *i.e.*, the individuals, and the Second House, which possesses fewer powers, the representative of areas *i.e.* the provinces. The reason is that the real right of Government is understood to be vested in individuals, while the areas are supposed to represent minorities. The Second Chamber, therefore, is concerned with only checking and revising measures, while the first constitutes the real legislature. But against all canons of political science, against all principles of justice and in utter violation of all political experience the Simon Commission recommends, strangely enough, that the provincial councils should have the right of electing members both to the Federal Assembly and to the Council of State. If the electorate is to be the same, what is the use of having two kinds of legislatures? What is more surprising is that on top of that the Commission expects that better men retired ministers, judges, high officials, etc. would be returned to the Council of State for the members of which therefore the Commission proposes higher qualifications. But the Commission has absolutely ignored the fact that there is only one instance in which there has been fixed the same electorate for the Assembly as well as the Council of State without giving the

latter, any special powers and that is in Australia; and there too the Second Chamber has totally failed, because all the best men of the country go to the First Chamber which is more important in respect of its powers and its usefulness. In the rest of the world quite different qualifications are prescribed for the voters of the two chambers, or some special powers are vested in the Second Chambers to draw men of better metal towards it. But where it is neither of the two it is absolutely idle to expect that able men would leave a good field of work and take as much trouble for their election as the Assembly candidates for the barren glories of the Council of State. There is no sense in it. If the proposals of the Commission in this behalf are accepted, then the Council of State would get only those candidates who have despaired of getting into the Assembly or those who merely hanker after the empty honours of the Council membership.

The Commission has also set at naught another well-tested principle of politics, *i.e.* under federal constitution there should be represented at the centre individuals as well as areas, for the Central Government has to pass laws affecting not only the areas but also the individuals. Therefore it is necessary to have

representatives in it of both sides for the due protection of their rights. But in the case of India the Commission has done away with the individual representation altogether, which is quite unprecedented at least in the civilized world. The Commission has also not taken into consideration that the U. S. A. has had, after a very long experiment, to discard the system of indirect election to the Senate in favour of the direct (*vide* 17th Amendment, May 31, 1913). While the world, getting wiser for its long experience, is coming round to direct election, the Commission is retrograde in suggesting that there should be indirect election both for the Assembly and the Council of State.

The third reason assigned by the Commission in this connection is that the average Indian is not in a position to check the work of the Assembly; but when the Provincial Councils would elect their representatives for the Second Chambers, the members thereof would know that they are being watched. Even this argument is not so well founded. It will lead to greater slackness as well as irresponsibility, for the point of view of the Assembly Members is quite different from that of the provincial councillors who cannot watch the working of the Assembly so well as those who are interested in the



centre; for it is our daily experience that while the provincial councils look on indifferently, a part of the general public becomes greatly agitated over the doings of the Assembly.

Moreover, under the system of proportional representation only that community can return its due representatives the candidates of which are in proportion to its voting strength.

If, however, the number of its candidates increases, the representation of the community will be proportionately reduced. Suppose, for instance, that the Punjab Council is going to be elected, and suppose also that 55 per cent of its members are to be Muslims, which means that they should have 16 members out of the total 30 for the whole province. Let us suppose further that some of these Muslim members belong to the Zamindar party, whilst some others are nationalists in which party the Hindus form the majority. Now what shall be the basis of this indirect election? Shall the Muslims vote for the Muslims in preference to their party, or shall they subordinate their Muslim interests to party exigencies? In the latter case they will be reducing the Muslim strength, while in the former case they shall be detracting from the value of a political principle by means of the system of joint electorates, for they shall have to

sacrifice their party principles, when they realise that their communal interests will suffer by voting in favour of their party. Moreover, a member so returned will be quite independent of any control or check, for he will be a non-party man. How can a provincial member supervise the doings of the Assembly member who has been elected on communal grounds irrespective of any political views? In case of being called to account, he can easily retort that he was sent in on communal grounds, and not on any party principle. But if a person is elected under the system of separate electorates, against a person of his own community, his constituency can call him to account if he does not properly represent the people who elected him.

After refuting the arguments of the Commission, I proceed to give a few more reasons to show that the system of indirect election is extremely harmful, particularly to the interests of the Muslims.

In the first place, I would say that the Muslims have it pledged on solemn authority that joint electorates would not be forced upon them against their will. Nowhere is it laid down that their right to separate electorates is confined to Provincial Councils.

Hence proportional representation, or in other words, joint electorates, cannot be enforced against the will of the Muslims. Even if the Muslim delegates to the Round Table Conference acceded to this proposal, the Muslim public would never agree to it; because the Muslims, as a community, are extremely opposed to its immediate adoption. If there has been no determined opposition to this Simon suggestion, as was the case with the Nehru Report, it simply means that the Muslims generally understand by it that the Muslim members would be elected by Muslim Councillors and the Hindu members by the Hindus. But as soon as the Muslim public would realise, as they would certainly do on the publication of this book, that indirect election means joint electorates, then they would set up an opposition to it from one corner of the country to the other. Undoubtedly they stand to lose much more by having joint electorates for the Assembly than would outwardly appear, as they would as a matter of principle, be staking their right of separate electorates in the provincial councils also.

Some people aver that joint electorates of this kind are not so harmful as those of the ordinary type; for in the latter case individuals are

bound to vote in favour of their co-religionists, because otherwise they know that the number of their representatives would be reduced. But this reasoning is faulty; even in the case of indirect election, the parties as such can be made to suffer, for under this system a party can, owing to a fractional advantage, return a creature member of another community who would be quite willing to play to its tune. In this way, they can indirectly take advantage of their fractional strength. Therefore, it is not true to say that there is no danger in it for the Muslims. The same dangers lurk here as in the general constituency or joint electorates. Besides, in provinces where the Muslims are a microscopic minority, they cannot secure anything under this system of indirect election. For instance, in C. P. where the Muslims form only 4 per cent of the population and their right of membership comes to 9·6 per cent, if ten Assembly members are to be returned by the province, there would hardly be any chance for a Muslim to get through. In the same way, owing to fractional deficiencies the Muslims would on the whole lose several of their members in different localities. We cannot affirm the same in the case of the Hindus, The one

reason why Muslims stress on the retention of Communal electorates is that Muslims as a community are a backward community, while the Hindus are everywhere dominating over them owing to their superiority in education, wealth, and experience. In addition to the other drawbacks, there is the great incubus of Muslim indebtedness which has enslaved the Muslims in the hands of the Hindu money-lenders. Hence, it is not true that the Muslims would not suffer by this arrangement. The Hindus would bring to bear their financial pressure upon the Muslim voters, and also by causing a split in the Muslim ranks they would succeed either in reducing the Muslim representation or in preventing the true representatives of the Muslims from being returned. I have heard the Punjab Muslim Councillors saying that the proposal is not so bad; they think on the basis of their experience that they can secure their rights in this manner. But in face of the fact that out of seven members to work on the Punjab Simon Committee there were only two Muslims, while there were three Hindus and one Sikh, it is idle to suppose that the system proposed by the Commission can work fairly in the interests of the Muslim Community. Moreover.

the experiment in the Punjab in this behalf is not based on religion but on Zamindar and non-Zamindar distinction. It is true that the various parties, have to some extent, their representation according to their numbers; but where all the claims of a community are advanced on the score of religion, it is surely impossible for it to get justice done on any party lines, because all the members of a community cannot necessarily have the same political views. It is very difficult to vote in favour of a candidate with whom one differs politically only on the ground that he belongs to one's own community.

The second reason against this system of indirect election is that the constituencies would get quite narrowed down. The provincial councils, which would be constituencies for this purpose, generally have 100 to 300 members. Now it is obvious that in such a limited number of voters corruption can find ready access, apart from personal influences that can be very easily brought to bear upon the voters. Hence indirect election would lead to moral degeneration. I admit that there are cases of corruption even in the case of wider constituencies; but no one can influence thousands of persons through

friendship, nor can one bribe so large a number of people for the sake of winning their votes.

Thirdly, as the provincial councils and the Assembly will differ in their functions, it is impossible for one man to keep in view both the interests. The result would be that the Assembly would never become truly representative of the country.

It passes one's comprehension how a single person can at one and the same time place before the country the needs of both the Provincial and the Central Legislatures and that also when he himself is a candidate only for the one. But even if he intends to stand as a candidate for the Assembly, he will, on many occasions, be unable to declare his views with regard to his policy in the Assembly, for it is just possible that his views concerning the work of the Provincial Council should be in harmony with those of the voters of his constituency but he might differ from them in matters pertaining to the Assembly. Is it conceivable that he will knowingly lose his chances of election to the Council by expressing his views about the Central affairs which are opposed to those of his constituency. Even if he does that, there will be many voters who will not care a bit for the Federal

policy of a candidate whom they consider to be a good representative in the Council. Therefore whatever his views about the central questions, he is sure to be elected to the Council, for the majority of voters will vote in his favour owing to their agreement with him in the provincial matters. Now, if the members of the Assembly are to be elected out of such councillors, it is apparent that the Assembly will lose its representative character. It may be called representative only in the sense that its members have been elected by the councillors, but no person acquainted with the rudiments of politics can hold it to be really so. Even in countries, far more advanced in education than India, we see that people generally give precedence to local rather than Imperial matters. During my visit to England in 1924, I was told by an influential conservative member of the Parliament, that the worth of a member here is judged not so much by the views that he holds, as by the amount and quality of the work that he does for his constituency. If any person has worked for the betterment of the conditions of his constituency, then many people who are quite indifferent to the principles of politics will eagerly give their votes in his favour. When such a state of affairs obtains in a country which has been enjoying a Repre-



representative Government for so long a time, what can we expect from India ?

The fourth defect which this system of election will give rise to, is that as the members of the Provincial Council have been allowed to select members for the Assembly from among themselves, and as the members thus elected may, if they choose, sit in both the Houses, it would often happen that members of the Provincial Councils would elect members of the Assembly from among themselves. The members so elected will, in order to combine in themselves a double honour, continue to sit in both, which will result in bringing the whole Government under the baneful influence of a clique, and like the members of the Long Parliament, the power will fall into the hands of a coterie. When the sessions of the both the bodies will fall on the same dates, an event which will occur more often than not, then both the central and the provincial bodies will suffer, because the members will be unable to give their whole-hearted attention either to the one or to the other.

But if it be laid down as a provision, that a member of the Provincial Council when elected for the Assembly, will resign his seat in the former, it will necessitate a number of by-elec-

tions soon after the general election, to fill the vacant seats of the members returned to the central body, and this is what the people naturally dislike. In short, this system of election is not only opposed to reason but also runs counter to practical politics. Moreover, it will prove injurious to the country in general and to the Muslims in particular. It will weaken the Central Government and will delay the attainment of Dominion Status. Hence the Assembly should be constituted by the direct votes of the electors, and a separate representation for the Muslims should be retained.

I cannot refrain here from saying that it was I who first placed before the Simon Commission the question of giving representation to the Provincial Councils in the Assembly.

The memorandum of the Ahmadiyya Community submitted to the Simon Commission in which the above suggestion was made contained the following words:—

*“Moreover, in our opinion it will be advisable that the provincial councils should also be represented in the Central Legislatures which will contribute to the true development of a Federal Constitution. It will certainly bring the Central Assembly and the provincial Councils much closer to each other to the mutual advan-*

tage of both." (Memoranda presented to the Statutory Commission, page 4). This opinion of mine was incorporated in their report by the Punjab Committee which sat with the Simon Commission, and thus I may be called the originator of this idea; yet I can not find myself in agreement with the recommendation of the Commission. My suggestion was based on the principle that the present form of the Council of State being inconsistent with constitutional principles, it should be abolished. In place of it, I suggested the representation of the provincial councils in the Assembly over and above its present direct representation of the people, thus combining both the functions in one body. My suggestion was thus based on a constitutional principle whereas the commission recommendation is based on no principle whatsoever. The Commission favours the retention of the Council of State, at the same time recommending that almost all the members of the Assembly should be elected by the Provincial Councils on the proportional representation system; and this is against the constitutional principles.

#### **The Council of State.**

I have already said that the present form of the Council of State is quite against constitutional

principles, there being no spécial work to justify its existence. This is the reason why I have always held the opinion that either a suitable change should be effected in it or it should be abolished altogether. Though the Simon Commission has recommended a slight improvement in its constitution, yet they have stultified this reform by the introduction of a like change in the Legislative Assembly. In my opinion in the Legislative Assembly all the members should be elected directly, while in the Council of State a different process should be followed. In this connection I would make the following suggestions, (1) The total membership in the Council of State should be fixed at one-third of that in the Assembly. (2) Nine-tenths of these members should be elected and returned by the provincial councils, one-tenth being nominated by the Governor-General in Council, from among such persons as have done some distinguished service to the country in the field of science, literature, social work etc., or from among persons who may represent special interests. Among the nominated members a due balance of proportion with regard to various communities should be carefully maintained. The representation of the Provincial Councils be strictly on the territorial basis, each province,

irrespective of its size, sending an equal number of representatives, and the election being held on the system of single transferable vote. But this is a minor detail which may be better settled by the delegates meeting together.

In spite of being an advocate of separate electorates for the present, I have in the above suggestion advanced the principle of joint electorates for the reason that the members of the upper chamber are returned on the provincial basis, as opposed to the lower to which they are elected as representatives of the people. My objection to joint electorates with regard to electorates with regard to the first chamber was due to the very fact that this chamber is the representative of the people whereas in the case of the Second Chamber I do not object to joint electorates because that chamber is not the representative of the people.

With regard to the nominated members, the Governor-General should have the power to nominate them either only for the life of legislature or as life members. The nomination of life-members would have a good effect upon the people and would stimulate their interest and zeal in serving the public. It would mean that those who render distinguished service to the country are honoured and duly rewarded by

being made life-members of the Council of State.

(3) The normal statutory life of the Council of State should be seven years, so that when elections are taking place there may remain at least one statutory body to help the Executive of the country. Or as an alternative, members should be elected for seven years, one third of the total being replaced every second year to give the Council a continuancy.

### **Powers of the Legislatures.**

I have already said that when the constitution of India is properly framed, it should not be put immediately into force at the Centre, but there should be made in the beginning some temporary arrangement out of which should gradually evolve, in conformity with the laws enacted for the purpose, the true constitution of the country. In the light of the above therefore I shall now discuss the powers of the first Assembly under the new Constitution.

It would not, in my opinion, be advisable to make the Executive subordinate to the Assembly at the very outset. The present relationship between the two should be maintained more or less in the same form for a period of ten

years. In view, however, of autonomous nature of future constitution of the country, the following changes should be made in this connection.

(1) The Assembly should be free in all fiscal matters and its decisions in this connection should be final, except when the Governor-General considers a decision to be injurious to the interests of the country as a whole and rejects it. It should have the power of amending or rejecting *in toto* all financial bills. Any part of the budget which is non-votable should be considered to have been passed at the certification of the Governor-General.

(2) During this interval of temporary arrangement, if the two Central Legislatures, by a majority of three-fourths, decide in favour of any measure, the Government should be bound to accept that decision, unless the same affects either the constitution of the country or the powers of the Executive or pertains to any of the non-votable subjects. The Governor-General should not have any power to reject such a decision. He can, however, return it to the legislatures for reconsideration, giving his reasons for doing so. If the legislatures amend it to the satisfaction of the Governor-General so much the better. But if both the houses stick to their

previous decision and are unable to make any alterations, the Governor-General should have the power, if he regards the decision to be detrimental to the general interests of the country, to dissolve both the houses and cause new elections to be held. The decision should remain pending in the meantime. If, however, the newly elected legislatures uphold that decision by a three-fourths majority, then the decision in question must be enforced.

(3) While it is necessary on the one hand that the representative element should be acquainted with the working of the Government and should also influence the Executive to a certain extent, and on the other hand it has also been decided that the present form of dyarchy which is really injurious must be done away with, therefore by way of a compromise between the two I should suggest that every time new elections are held, the members of the Assembly in conjunction with the members of the Council of State should choose and submit to the Governor-General 30 names out of themselves, of whom the latter should select a few and attach them, one each, with all the members of the Executive as Parliamentary Secretaries. They should all be paid as such and they should be subject to the same rules and regulations of



service and to the same discipline as the other employees of the Government. They should be bound to follow the policy of their department and keep its secrets; they must be answerable for their conduct to their superiors and to the Governor-General and not to the Assembly. All departments must also have permanent secretaries attached to them, but no distinction should be made between a permanent secretary and an elected member of the Assembly in respect of distribution of work, so that the elected secretaries may become acquainted with the various branches of the work of the Executive. These secretaries should be relieved of their duties as soon as the term of the Assembly comes to an end, and with the new elections a new panel should be prepared, out of which the Governor-General should select new ministers. These ministers should be liable to be removed by the Governor-General even before the life of an Assembly terminates, but the Assembly should not have power to remove them after they have once been selected. Thus, firstly the executive will be able to carry on their work unhampered; secondly, men who will enjoy the confidence of the Legislative body will gain experience of administration; thirdly, the secretaries, in spite of their being part of the execu-

tives, will be able to exercise an influence on the executive in favour of the opinion of the country, owing to their having come from elected bodies, and will to some extent be able to make the executive follow the wish of the Legislatures by exerting their moral influence on them; fourthly, these men will be helpful to the Government also, for, being members of various parties, they will have influence with them and will serve as a link between the elected representatives and the executive, for on the one hand, they will have before them the difficulties of the Government and on the other the wishes of the public.

(4) Some departments should be specified (for instance, education, hygiene, and sanitation, and industry) with regard to the policy of which the Assembly should have the right to issue general directions in the beginning of the year and the departments in question should carry out these directions as far as possible. By using the words "As far as possible," I mean that these directions should be departed from only when there are special reasons to do so; otherwise they should be as a rule adhered to. I know that the departments above are Provincial but part of them pertains to the central government.

I have mentioned them by way of illustration other departments may also be selected.

5. The Assembly should have no power to pass any resolutions with regard to the Army, Foreign and Political affairs, though it may express its views generally on these subjects.

The functions of the Council of States, besides preparing panels of ministers for selections, should be as follows:—

1. It should review the draft passed by the Assembly, after which the draft should, along with its opinion, be returned to the Assembly. If the Assembly agrees to the recommendations of the Council, then well and good. If it does not, then the bill should be submitted for the consideration of a joint committee of both the houses. If the joint committee fails to come to an understanding and the Assembly passes the bill a second time by an absolute majority of 60 per cent., it should be regarded as passed; otherwise it should fall. The Council of State, however, have no power to consider or pass an original bill, but it should be empowered to make a recommendation to the executive to the effect that legislation is needed in such and such matters.

2. It should have no power to amend any finance bill, but it should be authorized to return the budget or a finance bill for reconsideration. It should, however, have the power to reject the budget or any other finance bill in toto, but the result of this should be that if the Assembly is not able to make a compromise with it, both the houses should be dissolved. If the new assembly re-passes the bill after fresh elections, it should be regarded as passed. The reason why I propose the dissolution of both the houses is that the Council of State should not reject the budget passed by the Assembly without sufficient reason and that the member should realise that if they did so without good reason, they would not be re-elected by the provinces.

3. If the Council of State decides about a certain bill that it contravenes the rights conferred on the provinces by the constitution, the same should be referred to the provincial councils before any further action is taken about it. If the majority of the provincial councils also find that it does contravene their rights, the bill should not be proceeded with. The Governor-General, however, should have power to veto the decision of the Council of State and allow further consideration of the bill if he is of opinion that the matter is urgent and requires immediate atten-

tion. In such a case, the province or provinces, which consider that the bill involves a violation of its or their rights or the rights of the provinces generally, can submit the question to the supreme court for decision. If in cases of difference between the provincial and the Central Governments or between the different provinces, the course of instituting a law suit be not considered advisable, then some sort of arbitration may be decided upon after the manner suggested in section 9 of the Articles of Confederation of the U. S. A. and disputes may then be settled accordingly.

### **The Executive Council.**

In order to run the Government on the lines of the Dominions, it is necessary that the present system of the Executive should be reformed. At present, the Commander-in-Chief is also a member of the Executive Council. But this is not right. The expert head of the army should be above all politics. It is not therefore justifiable to make him a member of Government. In view of the reforms I propose the appointment of a Minister for the Military Department. He should be a civilian, so that when the system of self-government attains to perfection, there may be no difficulty in transferring the department to

popular control, and so that, in accordance with the scheme already proposed by me, a non-official head may be appointed for this department also on the recommendation of the Central Legislature. To make up the deficiency relating to the knowledge of military matters, military advisers may be attached to the Military Department.

Another reform which must be effected in connection with the Executive Council is that the new post of the Leader of the House proposed by the Simon Commission be created and the person appointed to that post should not only act as Leader of the House, but he should also act as Vice-President of the Executive Council. His position among the ministers should be analogous to that of the Prime Minister. The Governor-General should of course have power to call a meeting of the ministers and personally preside over it for the discussion of important questions, but generally he should leave it to the Vice-President to convene and to preside over such meetings. Thus gradually work will come to be conducted on lines which we have in view as our ultimate goal.

The third reform which should be effected in connection with the Executive Council is that, as the Simon Commission recommends, the

choice of its members should be left to the Viceroy. That also is a useful reform, for it will lay the foundation of the future ministry, and without any great change it will be possible to transfer the ministry from the services to the members of the Assembly.

The fourth reform that may prove useful is that in future members of the Executive be called "Secretaries," or "Ministers." In case of the members of the Executive Council being called "Secretaries," those members of the Assembly which I have already proposed to be elected by the Assembly as "Secretaries," of the different departments shall be called "Assistant Secretaries." This reform pertains to a name only, but names also exercise a psychological effect and they help in directing one to the approved rule of conduct.

Members of the Executive Council shall be *ex-officio* members of both the Central Houses, and they should be the only nominated members of the Assembly.

### **The Increase of Elected Element in the Central Government'**

The system proposed above should not in my opinion be altered during the first 5 years.

If after 5 years, both the Houses should, by a majority of three-fourths, pass the resolution that it was now time for the next step to be taken on the path of self-government, then after the passing of the above resolution further change should be made in the system of the Government of India. This change, in my opinion, should be that it should be laid down that besides the under secretaries appointed in the previous assembly, five out of eight executive councillors (including the leader of the House) should be Indians. The appointment of these executive councillors should be made out of the panel recommended by both the houses in the same manner which I have recommended for the secretaries or, in case members are named as secretaries, for the under-secretaries. But the relationship between the Assembly and the Executive should continue as before, i.e., the secretaries by whom I mean executive members, should be responsible to the Governor-General in the same manner as executive Councillors are held to be responsible, exercising only moral influence in favour of public opinion.

Similarly, in this forward step, the Central Legislatures should be empowered to the effect that those matters in which previously only such decisions of the legislature were held to be binding as were



carried by a majority of three-fourths, should thenceforth require an absolute majority of only 60 per cent., with the proviso that the constitutional law and non-votable matters as well as matters relating to the powers of the Executive would in no case be thereby affected.

After this step has been taken, the legislature should have no power to make any further change till a period of five years. When that period has expired, the Central legislatures should have power to decide to take the third step on the path of constitutional advancement, but such a decision shall not take effect unless it is arrived at by a majority of at least three-fourths. The third step should in my opinion consist in the Governor-General becoming bound to form a responsible ministry, the chief minister being held responsible to include among his colleagues at least two Englishmen from the services. Of those one should be in charge of the military department. The selection of ministers would of course rest with the Chief Minister, but it would be obligatory upon him to select two Englishmen from the services for the first five years. Thenceforward the Ministry shall be wholly responsible to the legislature, the Governor-General possessing the power of veto or of requiring the legislature to reconsider its deci-

sion. Political and Foreign affairs should, however, continue under the direct control of the Governor-General and the Military Budget should remain non-votable. In all other matters however the Central legislatures would then possess a fully responsible and self-governing status.

When the above step has been taken, the question of only minor reforms would remain to be settled. These reforms would be effected gradually, if only the Central Legislature keeps an eye on them. For under the changed conditions the legislature would enjoy sufficient power to bring about the realisation of all genuine desires of the country.

### **RELATIONSHIP BETWEEN THE CENTRAL GOVERNMENT AND THE PROVINCES.**

After the provinces have attained full autonomy all interference with their work on the part of the Central Government should cease. As a matter of fact, interference would not even be possible. It cannot be objected that in case there is a defect in the working of the Government, there would be no remedy for it, for the same objection applies with equal, if no more, force in the case of the Central Government. In all human work one has to repose confidence in

those finally responsible for doing them and expect that they would perform their duties faithfully and efficiently. When fully representative councils are established and the executive is made responsible to them, the Central Government would be considered to be divested of all responsibility in the matter which would thenceforward rest with the provinces.

Now there remains only the question of such matters as pertain to the Central Government. As many of these affairs also will be practically executed through the Provincial Government in order to avoid unnecessary expenses, therefore the subjects being Central the Executive of the provinces could in all such matters act in subordination to the Central Government, and would be bound to carry out the wishes of the Central Government, and provide necessary information concerning such matters. Governors of the provinces shall be under an obligation to see that all the business connected with the Central Government is properly carried on in their respective provinces. In the United States there are separate federal officials for this purpose, but in India, I think, we should follow the German example and make it binding on the provincial executives to see that federal laws are faithfully acted upon.

## CHAPTER VIII.

### THE ARMY.

The question of army is the most momentous of all the questions that pertain to the future of India, for it is on this department that hangs the internal and external peace of the country, and it is in this department that Indian element is weakest. India is very backward in the manufacture of the weapons of war and in the amending and repairing of all sorts of arms, and in the possession of the experts of the various military departments. Indians, however, cannot on that account be deprived of the right of self-government in their own country. We have before us the case of Japan. True that Japan is an island, and it was secure against any attack by land. But two naval powers the United States of America and Great Britain had secured a sort of hold upon it, but in spite of this, Japan speedily strengthened its military power. It is true that generals are not made in a day but it is equally true that at the time of need the making of generals need not take so much time as is required for that purpose in peace times. As a rule an officer takes 25 or 30 years to become a general, but we have seen how rapidly officers of every nation rose to be Gene-

erals in the days of the Great War. In short, every thing depends upon circumstances. One acts according as the occasion requires. There is no harm then if, overriding the ordinary rules of service, qualified Indian officers be promoted to higher posts sooner than it is permissible under the ordinary rules. Instead of looking to the period of service capable and promising officers should be promoted on their passing a test meant to judge their ability. In this way an Indian army manned by Indian officers would soon come into existence.

The Commission is of the opinion that the object of the army in India is not only the defence of India but also the defence of the British Empire and that the question of the Indian army should be looked from that viewpoint, and on the strength of this argument they have opined that Indian army should be kept under the British War Office and that a fixed sum be obtained from the Indian treasury and the rest should be defrayed by England. But I fail to understand this argument advanced by the Commission. I quite agree that India is an important part of the British Empire. But that the problem of its defence is more Imperial than that of the defence of Canada or Australia is what I cannot understand. The Commission says that it is not only the affairs of India that will affect its

frontier but even if the British Empire has a quarrel with some power somewhere else India will similarly be affected. Therefore they argue that it is an Imperial question. But if this is so the right course should have been that instead of depriving India of its right the various parts of the British Empire should have come forward to financially help it, but the Commission suggest that on that very score the Indian Army should be under the control of the British War Ministry. On the basis of such reasoning the Dominion Governments may say that as the defence of the Empire so much depends upon the Navy, hence the British control of the Navy should be placed in the hands of a Dominions Committee so that it may rest assured that the management of the navy is being efficiently carried on. If India were to believe that the significance of its being a part of the British Empire, is nothing but deprivation of her due rights then she would hardly feel the necessity of attaching any value to this connection. *The Indians can, and do, value the British connection on and make sacrifices for its sake only when they regard it to be a means of advancement and freedom.* Hence no scheme pertaining to the army or to any other department, which is calculated to deprive India of freedom can be helpful in cementing the relations

between India and England. Such a scheme can never be acceptable. In my opinion the management of the Indian army should be run on lines that may facilitate of its finally coming under the control of Indian legislatures. Certainly when this day will come the Indians will value India more than the English do now, and they will never suffer her liberties to be endangered.

In my opinion there cannot be a better way of solving the problem of the Indian army than that of the Skeen Committee, which included among its members one of the best of English Generals as well as the Army Secretary and the best representatives of Indian public opinion. The report which has the support of a man like General Skeen and the approval of the Indian public opinion cannot be summarily set aside. The report recommends:—

(1) The founding of a military college on the model of Sandhurst.

(2) The enlistment of Indians in Sandhurst in ever increasing numbers till in 1952, half of the army officers are Indians.

(3) The eight units which aim at the enlistment of pure Indian officers be abolished, and instead of that the Indians be afforded opportunities of working in all military departments side by side with the British. It is a matter for

regret that the Government of India rejected this report and did not accept any of the above three proposals, although I have now come to learn from a very responsible authority that notwithstanding the opposition of the Commander-in-Chief the Government of India is pressing for the Sandhurst scheme in India. But that is not the only question calling for attention. This plan will only help to expedite the training of Indian officers, and the Muslims who hold a long record of military service and who could not go to England for training owing to their poverty will be better enabled to avail of the opportunity of higher military training. But the other two points are equally important. So long as the Indian College does not open, provision should be made to send the Indians to Sandhurst in an increasing number, and if there be insufficiency of accommodation it should be provided for, even if India has to bear the expenses. In this way Indians and Englishmen should be given the opportunity of working together so that they may understand each other better, and the suspicion of the Indians that they are kept away from the British units only to thwart them in their progress may be removed.

I wonder why should there be any objection to Indians and Englishmen working together.



The only objection I have so far heard is that English officers are not prepared to work under the Indians. If this be correct, shame to the Indians if they are prepared to work under the English. If the Government keeps the two people apart on the strength of this argument, the Government is equally to blame. In such a case it cannot expect the Indians to co-operate with it, and in that case the Congress demonstrations are also mere proofs of the sense of national self-respect, and the Congress cannot be blamed in the least. But I am sure a man like Lord Irwin cannot possibly be in favour of such an argument, for, it would be expressive of a very low mentality. Differences of temperament cannot be held as an argument in favour of this separation, for, notwithstanding these differences the Indians are working under the English; why should not the English then work under the Indians? If an Englishman can not bear to do so then he is surely less civilized than the Indian, and does not deserve to be entrusted with the task of government.

In short, whatever is said against the Skeen Report is unreasonable. The scheme should be adopted immediately and Indians should be enabled to control the Indian army as soon as possible. But till that day comes when Indians

become qualified to take over the charge of all branches of the Military department and begin to understand all its needs, the plan which I have suggested above should be adopted, that is to say, there should be a separate Military Secretary and his assistant should be chosen from the panel recommended by both Houses of the Central Legislature. So far as I think a scheme which provides for the gradual transference of the Indian army to the control of the Indian Legislatures with a period of 30 years must be free from all danger. The military scheme should be drawn up with that objective in view. Further in my opinion, besides the Military Secretary we must also provide to bring into existence a Military Committee after some time. It may consist of some rulers of native states and Indian Military Officers with sound military experience. Military budgets should not be passed unless they have been considered by the said Committee when it comes into existence. We cannot have such a committee at present, as experienced military officers are not forthcoming. But after a period of eight or ten years when the Indians will have acquired necessary training the committee could be formed. If Mr. Wintson Churchill can be appointed as a War Minister with a very meagre experience, there is no

reason why the Indian youth should not become qualified after fifteen or twenty years' service to council his country with regard to military matters.

## CHAPTER IX.

### INDIAN STATES.

Now I come to the question of the Indian States as to what connection they should have with the new system of the Indian Government. Indian States contain one-fourth of the entire population of India, and extend over one-third of its area. Hence their keeping aloof from British India will necessarily affect its realisation of self-government. It is necessary therefore to find some formula on which some sort of connection should be established between the States and British India. As far as I know the policy of the States is to remain in direct touch with the Secretary of State for India, and failing that they would prefer their connection with the political department of the Government of India to their being conglomerated with British India.

Personally I am of the opinion that the States apprehend that if they were linked with British India, then it would insist upon the introduction of the same kind of responsible Government in the States as would then be established in British India. I do not think that it will happen so. Nevertheless, it cannot be ignored that if the inhabitants of the Indian States themselves make a movement for freedom, British Indians

will naturally sympathise with the movement for when a person finds others passing through the same kind of difficulties as he has had to encounter, he naturally feels for them. But his sympathy will be created in the minds of the people in all cases, whether the Indian States have got any connection with British India or not. The States should realise at the very outset that they would not be able to suppress his movement for freedom in their subjects when all around them humanity would be drinking deep at the fountain of freedom. When India acquires Dominion Status they should not expect much from the British Government in suppressing the legitimate aspirations of their subjects. They should, therefore, look ahead and should realise the importance of the coming events, and should sympathise with the aspiration of their subjects. Mysore and some other States of Southern India have already begun to move in this direction. If the other States also follow their example, they would gain much without losing anything. They will derive another benefit also by following this policy. The political officers who interfere in the State affairs every day would not do so then, for, in a constitutional government, most of the matters are settled in consultation with the

representatives of the country, and it is easier to bring pressure upon the Executive, than to suppress the opinion of the whole country. And what can be said to a Government which carries on its work in consultation with the people? Such a Government can act on such instructions only when it acquaints the legislature with those instructions and reserves its approval. And it is impossible for any political officer to agree to his views being placed before the House of Representatives. At any rate this is a question which the States can settle for themselves. We can only offer our advice. What we are concerned with here is whether the States can join the Indian Federation. I regret to say that under the present circumstances my answer to this question is in the negative. I am sure, the States will have to suffer a lot for the following reasons, if they do not join the Federal System:

1. The States are scattered here and there. And then some of them are large and powerful while others are only tiny ones. Thus if there is ever developed a sense of rivalry between British India and the States, the latter would not be able to stand the former in any respect. Great Britain will never interfere rather it will not be able to interfere with such matters if she once grants freedom to India because it would

not be a war of weapons, it would be only a purely economic war.

2. Only a few of the states are situated on the Indian Coast and their territory does not touch the boundaries of the rest of the States. If a proper understanding is not arrived at between British India and the states, British India would not care for the wishes and the needs of the states in respect of customs, etc., and consequently, they would have to incur heavy financial losses.

3. British India can also inflict upon the states a great loss in respect of railways, because the states are all scattered over the country. British India is handicapped only with regard to one railway line, otherwise it is completely independent. It can start parallel railways of its own and boycott the State Railways.

In short, situated as they are, the States will sustain a heavy loss, unless and until they join the Indian Federation.

But in joining the Federation also, there are difficulties both for British India and the States. So far as the States are concerned, if they enter the Federation they will have to give up their rights in all affairs relating to the centre, and in setting the central questions they will have to accept the principle that their

voice will carry weight only in proportion to their population. As far as I can see, the States are neither prepared to admit that the laws made by the Indian legislature would be binding upon them in so far as the central subjects are concerned, nor would they be willing to accept that their representation at the centre would be only one fourth.

British India is also confronted with difficulties, in cases the States decide to join the Federation. Firstly, what principle is to govern the States representation in the legislature, and in which house should they be represented? If it is decided that their representatives will have to be chosen by the people of the states, it will be impossible to act upon it; for there are many states with small population and cannot be entitled to send a representative. Neither is it possible for the inhabitants of various states to combine together for the purpose of elections, because a good many of the states are scattered all over the country. Secondly, the rulers of these states would never agree that the representatives of their subjects should sit with the representatives of British India and decide important questions concerning the States, and that the rulers should simply stand aside and look on.



Let us take the other alternative, which is that the representatives of the States be appointed by their rulers. Nothing less would satisfy the rulers in this respect. But this can never be accepted by British India. To allow two or three hundred people to nominate no less than one fourth of the total number of representatives is quite unreasonable. In the first place, in representative assemblies there is no room for nominated members. Even allowing that, it would be quite against the principle of politics to have a legislature in which one fourth of the members are the representatives of a few individuals only and under their direct orders. This would not in any way make them self-governing bodies, for their freedom would only be hypothetical. Further, an elected member may respect the will of his electorate but he is not quite at their beck and call, and is not their paid servant; neither is he responsible to them in every affair, but the state delegates would be servants of the rulers and completely under their orders. So they will be no better than mere voting machines, not worthy of an elected legislature, and their presence will only upset the balance of the legislature.

Moreover, British India will be justified in regarding the state representatives as British

nominees who shall create another official block, for so long as the States are under the Political Department, they are mere pawns in the game, ever ready to follow the political officer's lead.

If these States representatives would be used against British India, that would mean that India has jumped out of frying pan into fire. Again, the question arises which council are the States to join, the Assembly or the Council of State? If they join the former, it will not be advisable, as it represents the individuals and not provinces. Moreover, the assembly will have to discuss the budget etc. which has nothing to do with the States. If on the other hand they are to join the Council of State, they would naturally be disposed to resent it, as the Council of State enjoys only limited powers, and they would rightly say that being given representation only in a council of limited powers they could not be expected to be bound by the decisions of the Central legislatures.

Another difficulty which British India shall have to face would be that, as the Council of State represents areas and tracts, if the States were to join it, the balance of the provincial representation would be upset, and the whole constitution endangered. The states would not be interested in safeguarding the provincial

rights, as their rights are quite safe under the treaties. So if their representatives threw their weight in favour of those who espoused the cause of the unitary form of government, the position of the provinces would be quite insecure and their autonomy would be jeopardised. On account of these as well as other difficulties, the Indian states cannot join the Indian federation so long as they are attached to the political department and so long as representative system of government is not introduced in them.

So far as I understand, reform in both of these directions is quite necessary in the interests of the States themselves, but the difficulty is that they do not as yet realise the advantages of these reforms, and until the realisation dawns upon them, neither these reforms can be forced upon them, nor in such circumstances the Indian interests in general and minority interests in particular can be endangered. Therefore we should try to solve this question from a different point of view. After a careful consideration, I have arrived at the conclusion that the Federation system should be evolved separately in British India and the Indian States. As regards the form the federation of states should take, it should be left to the Indian states themselves. There is no need for us to go into the details of this

question. They can work out some sort of unity among them either through the Chamber of Princes or otherwise; and then both of these federations can be brought together through a scheme of confederation. The States should have nothing to do with ordinary British Indian legislation but should enter into a confederation of Greater India to settle such matters as customs, railways, coinage, exchange, post office, telegraph, aviation, communications, wireless, trade, banking, Indian rights overseas, opium, etc. (The list here follows the Simon Report.)

For the mutual co-operation of the two parts of India, the Simon Report proposes to set up a committee comprising representatives of British India as well as of the Rulers of States. The Commission recommends two kinds of British Indian representatives, some to be elected from among and by the members of the legislatures, and others to be nominated by the Viceroy. But they have left untouched the most important question as to the advantage of their meeting together. All they have said is that the result of this mutual consultation between the States representatives and the British Indians shall be placed before the Assembly and the Chamber of Princes. Indirectly this procedure may be

productive of some good, but no purpose can be served directly by this Committee. I think some better proposal, to promote a greater unity of interests is needed in order to have the way paved for the future federation on right lines.

I have already stated that the States should have some sort of internal union among themselves. Rulers of Native States generally think it to be below their dignity to work with the commoners i. e. British Indian representatives. So long as such a belief is cherished, there can be no way to bring about closer understanding. Another obstacle is that the latter represent a democratic form of government, while the former represent medieval personal autocracy and both hardly combine. But if the States can arrive at some common understanding among themselves, so as to make the Chamber of Princes not only a mere consultative body but a real federal union, then may be found out some means for closer union of the two parts of India; for in that case it may be arranged that the Executive of British India and that of the States federal Assembly hold mutual consultations. But this again can succeed only if both the executives are constituted on a representative basis, i. e., both should reflect the majority view of their legislatures, so that both may be in a position to carry out their decisions. That would be a sort of con-

ference on the lines of the Imperial Conference, where the executive councillors of the various units of the Empire decide upon certain lines of policy which they get passed in their respective dominion legislatures through their own influence. If we can succeed in devising some such constitution, we shall benefit by it in several ways:—

Firstly, the States will not hesitate to join a federation comprising the Rulers of the States or their own representatives in order to settle matters of common concern by mutual consultation, and they will be quite prepared to abide by the decisions of this body about such matters.

Secondly, the States shall also be thus initiated into the representative system of government. At first they shall of course work with their own peers or equals, but when they get used to working together, it may be hoped that they would not mind working with the British Indian representatives also. By working together I mean that they will not mind obeying the decisions of a Council in which they are represented in proportion to their numerical strength. Thirdly, if such a federation comes into being among the Indian States, their internal administration is also bound to improve. Some of the States, taken individually, are no doubt very well administered; and it would not be

wrong to say that even British India can learn much from them in many respects, but there is no uniformity among the States. Some of them are so badly governed that there is no government at all. It appears rather that the people have been visited by the Divine wrath. If the principle of federation is once accepted, they will get so used to the representative form of government that it will affect and tend to improve even the administration of the States and their common deliberations will bring about a sort of uniformity among them. Fourthly, without adversely affecting the British Indian administration, British India and the Native States will tend to federate together. Fifthly, as a result of this united effort, mutual understanding will, in ninety cases out of every hundred, lead a law to be passed in the legislatures of both the federations. Sixthly, it will pave the way for the future welding of these two federations into one.

On what principles are the States to join in a federation, some being disproportionately bigger than others, is a question which is not so difficult of solution. That can be effected on the principle of the old Imperial German Bundesrat in which there met representatives from all the German States. So great was the disparity in their sizes, areas, etc., that President

Lowell of the U. S. A. called it a strange sort of federation! an assembly of "a lion, a half dozen foxes, and a score of mice." Keeping this disparity in view, the Germans had devised a principle of representation which was a compromise between representation on the basis of population, and the representation of a state as such. Thus Prussia which had a greater population than that of all the other States taken together received only 17 votes out of a total of 58. The Indian States should be represented on the same principle; that is, the smaller States should get a little more than their due, because in their own territories they are as independent as any other; and the larger States should have a little less than their proportionate share for they should not be given dominating representation. Similarly, the Federal Assembly of the States should be constituted after the model of the Imperial Bundesrat; for it will be different from all the legislatures of the world in this respect that the members of the council will either be rulers of States or persons appointed by them; and all the representatives of a State, no matter what their number may be, will be compelled to vote as one unit; for, they will be either representatives of States or their rulers and not representatives of the public. Such was the case with the German Bundesrat before



the year 1918. Professor W. M. Munro, writing about it says:—

"The members of the Bundesrat were not appointed for fixed terms and could be recalled by their respective States at will. They voted in accordance with instructions given them by their own state government, and for that reason every state delegation in the Bundesrat always voted as a unit. Any member of the delegation could cast his states' vote; it was not even essential that the other members of the delegation should be present. The Bundesrat, from this point of view was an assemblage of ambassadors rather than a body of Senators. . . . .

It was not an international conference being part of a constitutional system, and having power to enact laws." (The Governments of Europe, pp. 604-605.)

From the above quotation, it is evident that the German Senate was constituted after the model of a council of ambassadors. Yet it was authorised to enact laws. It is this kind of council that is at present needed by the Indian States. Members of this council should be representatives of the rulers of the states and their votes should be given on behalf of the states. Every state should have power to recall them when it so pleases and may appoint new representative, in their stead. If one representative is

absent, another should have the right to vote on his behalf, for, it is not the vote of the individual member, but of the State. By adopting this system, the states can take the first step to federation, otherwise it is difficult to bring about any form of unity among them. For, whenever the question of creating a common legislative body will arise, the larger states, such as Hyderabad, Mysore, Kashmir, Baroda, etc. will certainly think of their own greatness, but under the system proposed, they will have a greater representation and at the same time there may come into existence a truly representative legislature fully retaining the rights of the rulers of the states.

I know that some Indian states are willing to join the Indian federation, but as I have already said, so long as the states are under the political secretary of the Government of India and so long as their representatives are selected by the Princes themselves, and so long as the opinion of these representatives is subordinate to the will of their masters, they cannot enter Indian Federation without jeopardising the liberty of India. If the states solve the above mentioned points everybody will welcome their joining the federation. Till then, the only course open to them is that they too should divide their

functions into two spheres, *i. e.* the states sphere and the central sphere. In the former, each state should enjoy complete autonomy, while in the latter they should abide by the decision of their Central Assembly. The executive of this Central Assembly should be on the representatives basis *i. e.* the executive should represent the majority. If any question arises in regard to those matters in which this Central Assembly and British India mutually agree to work together, the British Indian executive and the states' executive should jointly prepare a draft. As they both will have majority in their respective legislative bodies, they will succeed in getting that draft passed by them. If when the draft bill is placed before the legislative bodies of the both the parties the members show signs of strong disapproval, the parties should with mutual consultation effect such alterations in the bill as may satisfy all. Thus unanimity and uniformity in many matters of All-India interest will be gained with mutual consultation so long as the relationship between the States and British India is not established on federal principles, this system should continue. There is however one matter which requires careful consideration. The above scheme can operate only when the executives of both the parties are representatives of a majority of the members of the legislature,

otherwise the executive will not be able to fulfil its promises. Until the executive becomes fully responsible to the Federal Assembly, the best remedy lies in forming a sub-committee which should comprise members of all the parties. The Prince's Chamber should also appoint a similar committee. These two committees should be charged with the work of examining in their joint sessions any draft prepared by the executive about matters of common concern. The Secretary of the Department concerned, and the Assistant Secretary selected from the panel recommended by the Central Legislatures should both consult this committee before putting any bill pertaining to All-India matters before the Legislature. The committee should as far as possible try to prepare a scheme which may be acceptable to all. As in this case the executive will not have a majority in the legislature, this course would not prove as useful as the aforementioned scheme is expected to be, yet, it will to some extent afford ground for mutual co-operation.

Before concluding this subject, I want to say once again, that the Indian States should in all seriousness read the signs of the time, and ponder over the present conditions and try to make themselves able to join the Indian Federation, because in it lies their

own honour as well as the well-being of their subjects and the country as a whole. They should deeply ponder over the fact that Governments of far greater prestige and power have been constrained by circumstances to adopt representative and federal principles. When a thing must come to pass, is it not better to do it with good grace and in a useful and formal manner than to do it grudgingly and in pieces? If the states now decide to join the Indian federation, we can copy the example of the Imperial German Constitution in the matter of representation, though not in the division of powers. We may arrange, that the Lower Chamber (House of Representatives) should represent the people of the provinces and subjects of the States and that the Upper Chamber, which we may name as States' Council, instead of Council of State, should represent the interests of Provincial Governments as well as of the States. Such changes and alterations, however will be difficult to bring about afterwards.

## CHAPTER X.

### MISCELLANEOUS.

I have not dealt with the question of Finance, nor do I think myself fully qualified for this discussion. I may however suggest that in allocating the funds between the Central Government and the provinces the following three points should be borne in mind—

(1) As all the departments bearing on intellectual and social progress will be connected with the provinces, hence the allocation of funds should be such as to enable the provinces to suitably advance in these directions, otherwise the matters which form the very objects of Government, will lie in a comparatively neglected condition.

(2) The provinces should be empowered to borrow money on their own credit; but it should be laid down that every province shall borrow only from the people living in its own jurisdiction. It should not borrow from the foreign markets or from other provinces without the sanction of the Central Government, so that there may be no unfair rivalry. The Central Government will not suffer from this right being conceded to the provinces for it is beyond such rivalry, for, *firstly* the wealthier persons will have dealings mostly

with the Central Government. • A big customer naturally attracts the attention of the financiers more than the smaller ones. *Secondly*, foreign markets will be under the control of the Central Government.

(3) The central funds, which depend for their growth on the help of the provinces should so far as increase in their income is concerned, be suitably shared by the provinces so that the provinces may in their interest pay adequate attention to them, otherwise after full autonomy is established, the Central Government being not in a position to force the provinces in any matter such funds are most likely to suffer from neglect, resulting in consequent loss of income to the Central Government. It will at least strain mutual relations.

Another thing, about which I want to say something here pertains to the relation between the Central Government and the Secretary of States. In my opinion the India Council should be abolished immediately. It possesses no responsibility while it is creative of misunderstandings in the minds of the people, by representing the work of the Secretary of State as that of the Council.

Again when India is declared to have become free and self-governing what need will be left

for the India Council. In future the Secretary of State will have only a limited connection with the Government of India, the relationship being confined to those matters which will continue to be administered by the Executive Government at the centre i. e. the Political, Military and Foreign departments, or it will be confined to those powers, which the Governor-General, or the Governors will possess as such. All other matters will be settled by the Governor-General in India. All he will do will be to send a weekly or monthly report to the Secretary of State to acquaint him with the affairs in India.

### CONCLUSION.

In conclusion, I wish to say that whatever I have said above, I have said only in the hope that perchance one or other of my ideas may draw to itself the attention of the representatives of India or of England, and that by thus contributing my humble share to the solution of the mighty problem, which now confronts two great nations of the world and on the solution of which depends the happiness or otherwise of 32 crores of God's creatures, I may become deserving of His pleasure.

If I have presented details, it has been only with a view to explain the broad principles which I should advocate. I can hardly forget that



political questions like all other questions can be settled in hundreds of different ways. If anybody ever claimed that his proposals alone, in the details in which he conceives them, can provide the true solution of difficulties, it can only be, to use the mildest language, an unthinking assertion. It is of the broad principles that such a claim can be made. And of the principles which I have laid down, I can say that, with the grace of the Almighty, they are grounded on reason and the requirements of justice. To ignore them and to hope to maintain justice and equity in India is nearly impossible.

In the end I wish to address an appeal to all the delegates of the Round Table Conference, Members of Parliament and to other influential individuals both in England and in India. God has placed a tremendous responsibility on their shoulders. It is up to them to discharge this responsibility in an unbiassed and a non-partisan spirit, so that posterity may remember their names with honour; the prayers of generations deriving happiness from these decisions may reach them in all time to come; and above all they may become deserving of the grace of God.

Selfishness is bad even in small and transient matters but it will be an act of monstrous cruelty to allow one's judgment to be warped

by selfish motives and by thoughts of worldly gain in a matter which concerns millions of God's creatures and the effects of which may last for thousands of years.

May God through His great mercy, grant you sincerity of purpose, ennoble your intentions and clarify your perception! May this gathering and the momentous decisions which are to come out of it establish real unity and concord between India and England and between Hindus and Muslims, so that we may discharge worthily our responsibilities both to our contemporaries and to our posterity, and by the time we depart from this world we may have the satisfaction of seeing that since the day that we came into it, the world has traversed a long distance in the path of peace and love ! Amen !

And my last words are that all praise belongs to Allah the Lord of the Universe.

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Mahmud Ahmad:

Some suggestions of Indian  
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